

PROTOCOL FOR PLANNING COMMITTEE

The following sets out the method by which the Chair of Planning Committee will conduct the Planning Committee in the interests of clarity, consistency, and fairness in proceedings.

In endorsing the protocol and its objectives, the Council emphasized that there must be no pre-Committee lobbying by Members of one another. The ability of non Members of the Committee to speak with the consent of the Chair provides sufficient a mechanism for all views to be expressed at the meeting.

1. The Chair will open proceedings at 9.30 a.m. and welcome all to the Planning Committee.
2. Officers will advise the Committee of any changes in substance to the agenda or its order including public speaking, deferrals and withdrawals. This will be reinforced by the Addendum Report - Late Letters and Amendments (“the blue sheet”).
3. Any requests for applications to be brought forward to the start of the meeting will be proposed by Members, and subject to a seconder, will be subject to vote.
4. Applications involving public speakers will normally be considered at the start of the agenda.
5. Applications with public speakers will normally be considered before those without speakers.
6. The following will be the order of debate on each item (planning application or enforcement report) before the agenda:
 - i) Public speakers against and for to speak in accordance with the public speaking protocol.
 - ii) The Chair to seek proposers and seconds for the recommendation or any other alternative motions.
 - iii) At the Chair’s discretion, officers will introduce the item setting out the main planning issues including reference to visual displays.
 - iv) If a proposal to defer for a Members Site Inspection Panel is proposed and seconded, the issue as to whether a Site Inspection Panel shall be held and the planning reasons for such a panel shall be debated first. This is in the context that the request for a Site Inspection Panel should normally be in advance of the Planning Committee as set out in the

Guidelines for Site Inspection Panels.

- v) If any application has been subject to a previous Site Inspection Panel, the Chair will invite those Members who attended including the Ward Member, to speak first, before other Members.
- vi) On other applications, the Ward Member will be invited to speak first.
- vii) Members will be limited to a maximum of five minutes speaking in accordance with standing orders.
- viii) Once a Member has spoken, the Member shall not speak again unless seeking clarification on a point arising from the debate and only once all other Members have had the opportunity to speak and with the agreement of the Chair.
- ix) Following the debate the Chair will ask Officers to respond to any questions and sum up any issues arising from the debate including advice on a potential resolution in conflict with Officer recommendation.
- x) The Chair will make it clear that the debate is concluded and that voting is to commence. No further debate or questions will be permitted on the item. The Officers will prepare the electronic voting system and advise the Chair when voting can commence.
- xi) The Chair will put any motions to the vote. The electronic voting system allows a 30 second period for voting to take place during which period Members must cast their vote. Members who have not been present for the whole of the debate on an item should not vote.
- xii) The Chair will not tolerate any interruptions by Members without his agreement or audible conversations between Members or Officers which do not form part of the debate.
- xiii) Failure to abide by the above protocol will lead in the first instance to a warning from the Chair. Further failures may result in a motion under Standing Order 18.3 that the member be not heard further, leading ultimately to a motion under Standing Order 18.4 that the member leave the meeting in the event of continued improper behaviour.
- xiv) The Chair will state clearly the decision once the resolution is made.

**TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (GENERAL PERMITTED
DEVELOPMENT PROCEDURE) ORDER 1995 - TO DATE
PLANNING AND COMPENSATION ACT 1991
TOWN AND COUNTRY PLANNING ADVERT REGULATIONS 1994
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS)
ACT 1990
APPLICATIONS FOR PERMISSION FOR DEVELOPMENT**

These are reports and recommendations by Officers for consideration and resolution by the County Planning Authority.

All the applications in respect of the proposals specified in this report will be available for inspection by the Members of the Committee prior to and during the meeting at which the said applications will be considered.

The Background Papers relating to each application, including forms, plans, relevant correspondence, Development Plan and guidance documents are available for public inspection during normal office hours

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ITEM NO: 1

WARD NO: Denbigh Central

APPLICATION NO: 01/2007/0732/ PF

PROPOSAL: Demolition of 5 No. derelict cottages and redevelopment of site by the erection of terrace of 3 no. dwellings with associated parking and access of Tan Y Gwalia Road

LOCATION: Land at rear of 43 Love Lane fronting Tan Y Gwalia Denbigh

APPLICANT: D Lloyd-Williams & Ms B Carr

CONSTRAINTS: Town Heritage Area
Conservation Area

PUBLICITY UNDERTAKEN: Site Notice - Yes Press Notice - Yes Neighbour letters - Yes

CONSULTATION RESPONSES:

1. DENBIGH TOWN COUNCIL
"Object on the following grounds:
1. Vehicular access especially during demolition, clearance and construction
2. Access to the site off Tan y Gwalia would be unsuitable taking into account the gradient of the proposed access and the narrowness of the road at Tan y Gwalia
3. The site is wholly unsuitable for this type of development and any work on the site would cause disruption to other residents of the area"
2. COUNTY ARCHAEOLOGIST
No objection, an archaeological watching brief condition should be attached to any permission in addition to recording of the derelict structures.
3. CONSERVATION ARCHITECT
No objections raised previously, subject to control over external details
4. HIGHWAYS DEVELOPMENT TEAM
No objection subject to the inclusion of conditions.
5. HEAD OF HOUSING SERVICES
No objection
6. DWR CYMRU WELSH WATER
No response
7. DENBIGH CIVIC SOCIETY
The obscure glazing and limited opening lights on the south elevation would give sub standard living conditions. The three dwellings appear crammed into the site and reducing the number to two units would give better amenities to the new houses and to the existing houses on Love Lane.
8. CLWYD POWYS ARCHAEOLOGICAL TRUST
No objection however suggests appropriate conditions be imposed

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. Ann Jones AM, Constituency Office, 25 Kinmel Street, Rhyl LL18 1AH
2. Brynle Williams AM, The National Assembly for Wales, Cardiff
3. Miss Annette L Roberts, 2 Church Cottages, Tan Y Gwalia, Denbigh4.
4. Mrs Alma Sanders, St. Josephs Cottage, Tan Y Gwalia, Denbigh
5. Ann B Jones, 51-53 Love Lane, Denbigh
6. Mr A G Price, 1 Church Cottages, Tan Y Gwalia, Denbigh

7. Mr & Mrs Armstrong, 3 Church Cottages, Tan Y Gwalia, Denbigh
8. Ann Dent, 7 Rowan Lane, Skelmersdale
9. Eleanor Burnham AM, Constituency Office, 67 Regent Street, Wrexham

Summary of planning based representations:

- i) Impact on highway safety
- ii) Nature Conservation Issues
- iii) Loss of privacy and amenity
- iv) Overdevelopment
- v) Impact on Conservation Area
- vi) Lack of parking facilities
- vii) Increase in noise and disturbance
- viii) Loss of wildlife

EXPIRY DATE OF APPLICATION: 11/11/2007

REASONS FOR DELAY IN DECISION:

- additional information required from applicant

PLANNING ASSESSMENT:

THE PROPOSAL:

1. This application is a full planning application and proposes the demolition of 5 no. derelict cottages and redevelopment of the site by the erection of a terrace of 3 no. dwellings with associated parking and access off Tan y Gwalia. It is proposed to provide 3 no. car parking spaces off street within the site.
2. The application site comprises 5 derelict stone cottages located within the Denbigh Town Conservation Area and within the defined settlement limits of Denbigh. Most of the walls of the cottages remain. However, only a small part of the roof is still in place, and the whole structure is overgrown with vegetation. The remains are located along the southern boundary of the site within an overgrown plot measuring a total of approx. 0.03ha.
3. There is currently no vehicular access to the site but a gated pedestrian access located adjacent to 43 Love Lane which leads up to Tan y Gwalia. Tan y Gwalia is a narrow highway and existing properties have limited off street parking facilities, leading to the need to park on street. The site slopes steeply up from Love Lane to Tan y Gwalia and is bounded by a traditional 1.5m high stone wall. Two storey properties on Love Lane back onto the western and southern boundary of the site.

RELEVANT PLANNING HISTORY:

4. 01/2005/0865/PF Demolition of 5 no. derelict cottages and redevelopment of site by the erection of terrace of 4 dwellings and formation of new parking area and new vehicular access REFUSED 14th December, 2005 for the following reason:

"The proposal would lead to increased use of a narrow lane with limited width, poor alignment, and inadequate space for turning, parking and manoeuvring of vehicles. The proposal would also be likely to lead to additional on street parking, exacerbating the inadequate highway conditions. The development would therefore be detrimental to the safety and convenience of all highway users and be contrary to criteria (vi) and (vii) of Policy GEN 6, Policy TRA 6, and Policy TRA 9 of the Denbighshire Unitary Development Plan."

An appeal was lodged against the refusal and was DISMISSED in October 2006. The Planning Inspector considered the highway and residential amenity impacts to be unacceptable and the appeal was dismissed on both grounds.

01/2005/1119/CA Demolition of 5 no. terraced houses GRANTED 4th November, 2005.

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July, 2002)
Policy GEN 6 - Development Control Requirements
Policy CON 5 - Development in Conservation Areas

Policy CON 7 - Demolition in Conservation Areas
Policy HSG 2 - Housing development in main centres
Policy HSG10 - Affordable Housing within Development Boundaries

Supplementary Planning Guidance 21: Parking Requirements in New Developments
Supplementary Planning Guidance 22: Affordable Housing

GOVERNMENT GUIDANCE
Planning Policy Wales : March 2002

Welsh Office Circular 61/96 Planning and the Historic Environment: Historic Buildings & Conservation Areas

MAIN PLANNING CONSIDERATIONS:

6.

- i) Principle of development
- ii) Impact on visual amenity/character and appearance of Conservation Area
- iii) Impact on residential amenity
- iv) Highway considerations
- v) Wildlife
- vi) Affordable Housing

7. In relation to the main planning considerations:

i) Principle of development

The principle of residential development within the development boundary of the town would be acceptable provided the proposal complies with other relevant policies in the UDP. The land is not safeguarded for other uses.

ii) Impact on visual amenity/character and appearance of Conservation Area

The redevelopment of the site involves complete demolition of the redundant cottages and construction of a terrace of 3 no. two storey dwellings. The dwellings would be located on a similar footprint as the existing cottages and as the site slopes steeply upwards the dwellings have been designed with a staggered roof line. This is considered visually acceptable and respects the character of the area and topographical features of the site. The dwellings are considered to provide a traditional design solution incorporating traditional features with materials to reflect the character and appearance of the area. With suitable control over final detailing, it is considered that the visual impact on the proposal is acceptable and would retain and enhance the character and appearance of the Conservation Area.

iii) Impact on residential amenity

Existing residential properties are located to the western and southern boundaries of the site. All properties are two storey with rear elevations backing onto the site. The property at 45 Love Lane is currently physically attached to the side elevation of the redundant cottages and it is proposed to re-build the proposed terrace in the same manner. The rear windows of 45 Love Lane face into the site and therefore there would be no windows on the proposed development overlooking this property.

The rear elevation of the proposed terrace would be located immediately facing the rear elevation of 51-53 Love Lane which has windows on this elevation. The impact on this property was fully considered by the Planning Inspector in considering the previous application on appeal. The windows along the rear elevation will be obscurely glazed, with a roof light provided for the proposed bathrooms to eliminate the need for opening windows on this elevation. The amenity issue considered on appeal related to the impact of the increased height of the proposed dwellings on the first floor windows on the side elevation of 51-53 Love Lane. The appeal Inspector concluded that the increase in the height of the elevation of the terraced cottages compared with the existing wall would have an unacceptable harmful effect on the first floor bedroom window in the side elevation. The window currently receives daylight from above the boundary wall which would be severely reduced by the rear elevation of the nearest new cottage, leading to an unacceptable overshadowing and darkening of a habitable room.

In the original application, the proposed dwellings were located in the same location as the existing cottages. In this revised application, the footprint of the building has been moved forward, moving the properties 1.2m away from the boundary/existing rear wall of the cottages, giving a total

distance including the thickness of the existing wall of 2.5m from the main side elevation of no. 51-53. However, whilst the distance in between the properties has been increased, with an eaves height of 4.6m with an overall ridge height of 6.6m on a site with a significantly higher ground level, a distance of 2.5m from rear elevation to rear elevation is considered unacceptable. The eaves height of the proposed dwellings would be 2m higher than the eaves height of the property at 51-53 and within such close proximity, this would still have an unacceptable overshadowing and darkening of a first floor bedroom window.

iv) Highway considerations

The Head of Transport & Infrastructure is satisfied with the access arrangements and car parking facilities subject to the inclusion of relevant conditions. This repeats highway officer comments on the previous application, which was subsequently refused on access grounds and dismissed on appeal. This is an instance where detailed consideration has to be given to the conclusions of the Planning Inspector is dismissing the appeal on the previous scheme in 2006.

In summary, it was concluded "that due to the limited size of the car park, it would not be possible at all times for vehicles to enter and leave in a forward gear, so that drivers would have to reverse into or out of the nearby highway which is too narrow to accommodate a two way flow of traffic between the pinch point to the north of Stanley Terrace. This problem would be compounded by the fact that there is a row of cottages without parking facilities almost opposite to the proposed access point. It was therefore concluded that the traffic generated by 4 vehicles would give rise to conflict and unacceptable inconvenience to other road users in the immediate vicinity."

This application proposes 3 dwellings with 3 car parking spaces, and therefore shows a larger parking area. This larger area includes space for turning so that cars would be able to enter and leave in a forward gear. Having regard to the appeal decision and comments made by the Planning Inspector, it is considered that the issues raised in respect of the highway considerations have been addressed by the provision of a larger parking area, enabling cars to enter and leave the site in a forward gear.

Whilst the concerns of local residents are noted, the Local Planning Authority has to give considerable weight to the considerations and conclusions made by the Planning Inspector.

v) Wildlife

The site is overgrown with vegetation with some small trees. The site has been vacant for some years and therefore it is possible that protected species such as bats may be present within the derelict cottages. It is considered reasonable to request that an ecological survey be carried out prior to any demolition works on site.

vi) Affordable Housing

The applicant has indicated the intention to make 1 unit (plot 3) available for low cost homeownership. This would be consistent with Policy HSG 10 and the SPG on affordable housing and could be secured through a Section 106 obligation.

SUMMARY AND CONCLUSIONS:

8. The principle of development within the development boundary is considered acceptable without causing a detrimental impact on visual amenity/character of the Conservation Area. Affordable Housing and Wildlife considerations can be addressed. It is considered that the highway issues have been satisfactorily addressed to overcome the issues raised by the Planning Inspector. However, it is still considered that there would be an unacceptable impact on residential amenity, causing an unacceptable overshadowing and darkening of a habitable room of a neighbouring property.

RECOMMENDATION: REFUSE- for the following reasons:-

1. It is the view of the Local Planning Authority that the proposal would lead to an unacceptable impact on the residential amenities of the adjacent property at 51-53 Love Lane, resulting in unacceptable overshadowing due to the height and proximity of the proposed dwellings contrary too criteria v) of Policy GEN 6 in the adopted Denbighshire Unitary Development Plan.

NOTES TO APPLICANT:

None

ITEM NO: 2

WARD NO: Corwen

APPLICATION NO: 05/2007/1370/ PF

PROPOSAL: Extension and reconfiguration of existing car park including coach parking, bus interchange and dedicated bus lane, relocation of recycling facilities and associated landscaping and environmental enhancement work

LOCATION: Car Park Green Lane Corwen

APPLICANT: Denbighshire County Council

CONSTRAINTS: C2 Flood Zone
Within 67m Of Trunk Road

PUBLICITY UNDERTAKEN: Site Notice - Yes Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

1. CORWEN COMMUNITY COUNCIL
No response received.
2. ENVIRONMENT AGENCY WALES
Note the site is within a C2 flood zone, but given the nature and scale of the development, do not consider a Flood Consequences Assessment is required. Request inclusion of a condition to ensure control over surface water run off.
3. HEAD OF HIGHWAYS & INFRASTRUCTURE
No objections, subject to inclusion of conditions to ensure completion of works and restrictions on the use of the proposed bus lane.
4. CONSERVATION OFFICER
No objections. Sensitive design and landscaping does not appear to have an impact on Listed Buildings or the Conservation Area.

RESPONSE TO PUBLICITY:

Letters of representation received from:-

1. Mr. D. Roberts, Hafan, Green Lane, Corwen
2. L. Fenner, Fenner's Food Court, Y Ddraig Goch, Green Lane, Corwen

Substance of representations

The letters draw attention to legal ownership issues, and include a request to erect bollards in front of an existing property to prevent damage from vehicles accessing parking bays.

EXPIRY DATE OF APPLICATION: 22/01/2008

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. The application proposes a number of improvements to the existing main public car park off Green Lane, Corwen. These include:
 - i) Extending the parking area (marginally) onto flat land to the east of the existing tarmaced area.

- ii) Undertaking a range of environmental improvements within the car park, e.g. new lighting, landscaping, picnic tables, and a remodelled layout of parking spaces.
 - iii) Relocating the existing recycling containers
 - iv) Adding designated Coach Parking spaces.
 - v) Creating a designated bus interchange facility with shelter and benches (to comply with the Disability Discrimination Act 1995), to the east of the existing public conveniences, and a new length of 'one way' roadway for exclusive use by buses, running from the car park to link with the road serving Corwen Pavilion and Llys Edeyrnion Business Centre, which exits onto the A5.
2. The existing car park has served an important role for many years. It contains some 125 parking spaces. There is a Health Centre located in the north east corner, public toilets and a recycling facility present.
 3. The proposed upgrade would result in a total of 150 car parking spaces, an additional 11 disabled spaces, and 4 coach parking spaces. There are 9 separate parking spaces for the Health Centre. The plans are drafted to be compatible with future proposals for the extension of Llangollen Railway.

RELEVANT PLANNING HISTORY:

4. None of specific relevance to the current proposals.

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
 - Policy STRAT 12 - General
 - Policy STRAT 13 - New Development
 - Policy STRAT 14 - Highways
 - Policy GEN 6 - Development Control Requirements
 - Policy CF1 - Community Facilities – General
 - Policy TRA 1 - Public Transport
 - Policy TRA 2 - Traffic Management and Calming

MAIN PLANNING CONSIDERATIONS:

6. The main considerations here are:-
 - i) Principle of development.
 - ii) Highway impact
 - iii) Visual/environmental impact
7. In relation to the considerations above:
 - i) Principle of development
The upgrading of an existing town centre car park, to improve the facilities for users of public transport, private vehicle and coach users, and the creation of an improved recycling facility, is consistent with general Unitary plan policies and principles.
 - ii) Highway impact
The existing approach highway and the entrance off Green lane is considered adequate to cope with the number and type of vehicles which could use the parking area. The details of the 'bus only' lane running from the site to the south east, would need to be agreed with the highways officers.
 - iii) Visual/environmental impact
The proposals offer a real opportunity to improve the quality of the environment in and around the car park, which has developed over time in a piecemeal fashion. The scheme includes for extensive landscaping/planting, and resurfacing works.
8. Matters of a private legal nature have been drawn to the applicants' attention and these would need to be resolved as appropriate with the individuals involved.

SUMMARY AND CONCLUSIONS:

9. The proposals are acceptable in principle and in detail, and would lead to a considerable improvement in the facilities offered, and the overall appearance of the area.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. No development shall be permitted to commence until the written approval of the written approval of the Local Planning Authority have been obtained to:-
 - a) All materials proposed for the surfacing of the car park, footways, paved areas, new section of road and kerbing.
 - b) The detailing of the proposed boundary fences, bollards and picnic tables, including location.
 - c) The details of the proposed soft landscaping, including numbers and types of trees and shrubs.
3. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which, within a period of five years of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
4. No development approved by this permission shall be commenced until a scheme for the provision and implementation of a surface water regulation system has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be implemented prior to the construction of any impermeable surfaces draining to the system unless otherwise agreed in writing by the Local Planning Authority. Surface water generated from new impermeable surfaces must be limited to equivalent Greenfield rate for the site, the level of which to be agreed with the Agency.
5. The car parking accommodation and bus lane shall be laid out and constructed strictly in accordance with the submitted plan and completed before the use hereby permitted is commenced.
6. The use of the bus lane shall be restricted to buses only and the measures to prevent other motorised vehicles entering the lane shall be retained at all times.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. To ensure a satisfactory standard of development, in the interests of visual amenity.
4. To prevent the increased risk of flooding on and off-site.
5. To provide for the loading, unloading and parking of vehicles clear of the highway.
6. In the interest of traffic safety.

NOTES TO APPLICANT:

You are advised that the site is within a C2 flood zone as defined by the development advice map accompanying TAN 15 Development and Flood Risk. The Environment Agency Wales draw attention to the issue of flood risk and advise that flood proofing measures should be installed as part of the development.

ITEM NO: 3

WARD NO: Llanbedr Dyffryn Clwyd / Llangynhafal

APPLICATION NO: 16/2006/1418/ PR

PROPOSAL: Details of design and external appearance of building, landscaping and ground stability submitted in accordance with Conditions no.1 and 10 of Outline Planning Permission code no. 16/2006/0535/PO

LOCATION: Land at (Part garden of) Robin Hill Llanbedr Dyffryn Clwyd Ruthin

APPLICANT: Mr & Mrs D Jones

CONSTRAINTS: Within 67m Of Trunk Road
AONB

PUBLICITY UNDERTAKEN: Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

1. LLANBEDR D.C COMMUNITY COUNCIL
"Object proposed dwelling is much larger than woodlands cottage and it would stand on higher ground. The three storey dwelling would stand out in the immediate surroundings, it would be out of character in the AONB and prominent. Dense mass of building located very close together – 2 dwellings already in the Robin Hill plot. Concerns that a full and proper ground survey has not been carried out in accordance with conditions on the outline approval."
2. WAG HIGHWAYS
No objections subject to conditions
3. ENVIRONMENT AGENCY
No objection - standard advice applies
4. AONB COMMITTEE
The JAC notes the modest reduction in the height of the proposed dwelling. A more significant reduction in the height and mass of the building, especially when viewed from the A494 would have been preferred but if the planning authority is satisfied with the revised design, the JAC will accept their decision.

RESPONSE TO PUBLICITY:

Representations received from the following on the most recent plans:

1. Mr V. Cooper, Rhyd y Foel,
2. Mr W. Chandler, Dyffryn Aur,
3. Erinaceous Planning on behalf of Ms Davies and Ms Carragher, Woodlands Cottage, Llanbedr D.C

Summary of planning based representations:

- i) The building will dwarf the four bungalows around it and will spoil the privacy for these dwellings
- ii) The proposal will not accord with UDP policies GEN6, ENV2 and HSG4
- iii) The development is out of character with the AONB, by reason of size, scale and mass of the proposed dwelling
- iv) Impact on residential amenity of the woodlands and land stability in close proximity to the dwelling.

EXPIRY DATE OF APPLICATION: 01/08/2007

REASONS FOR DELAY IN DECISION:

- protracted negotiations resulting in amended plans
- re-consultations necessary on amended plans / additional information

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application site is in the development boundary of Llanbedr DC and comprises of land forming part garden of the dwelling known as Robin Hill. The current application is for reserved matters to deal with condition no 1 and 10 of outline planning application ref no 16/2006/0535/PO for the erection of one dwelling. These are details of design, external appearance, landscaping and ground stability.
2. The details include the design, external appearance and landscaping for one dwelling and propose a three storey dwelling with garage on the lower ground floor and living accommodation on the ground floor and second floor.
3. Negotiations have taken place with the applicant to reduce the height and mass of the building, the recent revisions include a reduction of 0.3m in the height of the proposed dwelling and setting the proposed building down lower into the landscape. Amendments to the roof design (dormer in place of high level window on upper floor) have also been made. The materials proposed are slate for the roof and painted render.
4. Details in relation to ground stability have been provided to comply with condition no 10 of the outline application. These details make reference to a visual inspection of the site and the applicant states that further investigation will be carried out at the building regulations stage.
5. Members may recall this application being deferred from 10th October 2007 planning committee to allow for further investigation of land stability issues and the impact on the street scene, neighbouring dwelling and the AONB.
6. Further information on land stability and the street scene have been requested by officers following the deferral of the application from the October meeting. Further information on land stability has been provided, however the applicant has not submitted any information in relation to the street scene.

RELEVANT PLANNING HISTORY:

7. Application ref no: 16/2006/0535/PO – development of 0.11 ha of land by the erection of a detached dwelling and construction of new shared vehicular access (outline application). Approved with conditions on the 4th October 2006

PLANNING POLICIES AND GUIDANCE:

8. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN1 – Development within development boundaries
Policy GEN6- Development control requirements
Policy ENV2- Development affecting the AONB

GOVERNMENT GUIDANCE

Planning Policy Wales (March 2002)

PPG14 – Development on unstable land

MAIN PLANNING CONSIDERATIONS:

9.
 - i) Impact on visual amenity / AONB
 - ii) Impact on residential amenity
 - iii) Highways
 - iv) Ground stability
10. In relation to the main planning considerations as noted above:
 - i) Visual amenity / AONB: Following the deferral of this application from the 10th October 2007 planning committee further information on the street scene was requested by officers. This information has not been submitted however, it is considered that the current information (elevations) is adequate to make a decision. Based on this, it is the view of officers that whilst the size and scale of the proposed dwelling is large, it is comparable to those in the area and is set in a large garden area well back from the road. This respects the character and pattern of development in the locality. The roof height of the building has been reduced and it is proposed to set the dwelling lower in the landscape to give more of a definition between the ridgelines of Robin Hill, the proposed dwelling and the Woodlands. The materials proposed for the development are slate and render which ties in with the materials in the surrounding area. Comments from the AONB state that they note the reduction in the roof height and whilst they would have preferred a further

reduction in the size and scale of the dwelling will accept the decision of the LPA. The proposal is considered to be in accordance with policy ENV2 and criterion i), ii), iii) and iv) of policy GEN6.

- ii) Residential amenity: The dwelling is proposed to be located 22m from the side of the elevation of the Woodlands, 13m from the side of Robin Hill and set back 20m from the road. There is a 10m rear garden area which will provide adequate amenity space to the proposed dwelling. The side elevation facing the Woodlands contains two windows at first floor level which will serve the bathroom and en suite. These windows are to serve non habitable rooms and will be obscurely glazed. This along with the distance from woodlands cottage ensures no detrimental impact to residential amenity in accordance with criterion v) of policy GEN6.
- iii) Highways: No objections have been raised in relation to the formation of an access onto the A494. WAG highways suggest conditions on approval, and as such the proposal is in accordance with criterion vii) of policy GEN6.
- iv) Ground stability: This application was deferred from the 10th October 2007 planning committee meeting to allow for the further investigation of ground stability. Further details in relation to this have been submitted for consideration and include reference to the information previously submitted. This includes an initial visual inspection of the site where it has been concluded by the structural engineer that there will be no impact on the neighbouring property. Unfortunately this additional information contains an error where it refers to a "proposed bungalow". Clearly the structural engineer is aware of the details of the proposed dwellings and has acknowledged this typographical mistake.

The additional information submitted by the structural engineer along with the details of this application and previous outline consent have been examined by a legal consultant on behalf of the Local Planning Authority. The legal officer concludes that as the Council have no evidence of ground instability at the site or surroundings the applicant has done what he can to comply with the Outline planning condition imposed thereon. It is felt that a refusal of the application on the issue of ground stability and the level of information supplied could only be substantiated should clear evidence of stability be available. A qualified engineer has provided his report on this issue and has acknowledged that further investigations must take place at Building Regulations stage. Should any problems be discovered at that stage then relevant foundations will need to be designed. Any damage to neighbouring properties, if experienced, would be the responsibility of the developer. A note to the applicant will seek to emphasise these points.

SUMMARY AND CONCLUSIONS:

11. The proposal is for the reserved matters for the erection of a dwelling on land forming part garden of Robin Hill. The proposal is considered to be acceptable based on visual amenity and landscape terms as is the impact of the proposed development on residential amenity. No concerns have been raised by the highways department in relation to the formation of the new access on to the A494. The issue of ground stability has been adequately addressed having regard to legal opinion. The scheme of reserved matters complies with the relevant Unitary Development Plan policies and guidance and every effort will be made to liaise with colleagues in Building Control during construction.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. Further details in relation to land stability shall be submitted to and approved in writing by the Local Planning Authority before any works on the erection of the dwelling. Details shall include an assessment of any signs of weakness of the stability of the ground and any mitigation required in the construction of the dwelling to ensure the stability and safety of the proposed dwelling and adjacent dwellings.

The reason(s) for the condition(s) is(are):-

1. In the interests of identifying any hazards which may have resulted from such activity.

NOTES TO APPLICANT:

None

ITEM NO: 4

WARD NO: Llandyrnog

APPLICATION NO: 18/2007/1328/ PF

PROPOSAL: Erection of extension to existing building to provide 2 new bedrooms

LOCATION: Mental Health Care Ash, Highfield Park Llandyrnog Denbigh

APPLICANT: Mental Health Care (Highfield Park) Ltd

CONSTRAINTS: AONB

PUBLICITY UNDERTAKEN: Site Notice - Yes Press Notice - No Neighbour letters - No

CONSULTATION RESPONSES:

1. LLANDYRNOG COMMUNITY COUNCIL:
"Members feel that Ash has been brought back into use covertly and would welcome your views on that. If that is not the case then members object to the application on the ground that insufficient parking seems to have been shown and that the excess traffic generated would be detrimental to the amenity of the area"
2. HEAD OF TRANSPORT AND INFRASTRUCTURE
No objection.

RESPONSE TO PUBLICITY:

None received

EXPIRY DATE OF APPLICATION: 01/01/2008

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. Permission is sought for two front extensions to an existing Mental Health Care Unit to create an additional 2 bedrooms. At present the unit provides 6 bedrooms and is single storey. The extensions would be single storey and project 3.9 metres from existing front gables. The left hand extension would be 9.2 metres wide and the right hand side 8.8 metres. The roof would be hipped at the front. Materials are to match the existing building.
2. As part of the application it is stated that the number of vehicles visiting the unit each day will increase from 6 to 8.
3. The site is located within the grounds of Highfield Park which is within the Area of Outstanding Natural Beauty. The site is well landscaped and screened by mature planting. Immediately to the north west of the building is parking for 8 vehicles.

RELEVANT PLANNING HISTORY:

4. 18/2006/0784 – Demolition of existing building and erection of 3, 8 bedded bungalow style buildings and construction of associated car parks.

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 – Development Control Requirements
Policy ENV 2 – Development Affecting the AONB
Policy CF 5 – Residential Institutions

MAIN PLANNING CONSIDERATIONS:

6.
 - i) Principle of development
 - ii) Impact upon AONB/Visual amenity
 - iii) Parking/Highways
7. With regard to the above considerations:
 - i) Principle of development:
Policy CF 1 allows for extensions to existing residential institutions such as Highfield Park provided it does not represent an over development of the site. It is considered that the site is large covering approximately 9 hectares and that therefore the addition of two further bedrooms is not considered over development nor an over concentration of such a use in this area. Therefore the proposal is considered acceptable in principle
 - ii) Impact upon the AONB/Visual amenity:
The proposed scale and design reflects that of the existing building. Materials would match the existing and the proposal would not appear incongruous within its setting. Being sited to the rear and within the centre of Highfield Park it is not considered that the proposal would have a detrimental impact upon the character of the AONB. The proposal therefore complies with the requirements of Policy GEN 6 and ENV 2 in relation to the appearance of the building.
 - iii) Parking/Highways:
The scheme proposes an increase of 6 to 8 bedrooms which translates in an increase in vehicular flow to and from the site of 6 to 8 vehicles per weekday. 8 parking spaces are available adjacent to the application site. It is further considered that in the context of the entire institution the increase of 2 cars per day is not considered to impact negatively upon the highway network of the area. The proposal is therefore considered acceptable in terms of its impact upon traffic flows within the vicinity.

SUMMARY AND CONCLUSIONS:

8. The proposal is considered acceptable and there are no material planning objections.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The materials and finishes of the external surfaces of the walls and roof of the building hereby permitted shall be of the same texture, type and colour as those on external walls and the roof of the existing building.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.

NOTES TO APPLICANT:

You are advised that depending on the size and scale of any further proposal that access improvements may be required. You are encouraged to discuss future proposals with the Local Authority's Highway Agency.

INFORMATION REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION

WINDFARM PLANNING APPLICATIONS
INTRODUCTORY REPORT

1. PURPOSE OF REPORT

- 1.1 The report is to introduce the following two applications on the agenda, which both involve wind turbine developments in Denbighshire. The application code numbers, description, and locations are detailed below.

Code No. 25/2007/0565/PF

Construction and operation of a wind farm comprising of sixteen wind turbines with a maximum tip height not exceeding 100m, along with transformers, access tracks, on-site switchgear and metering building, two anemometry towers and associated construction and operational infrastructure

Land East of Llyn Brenig Nantglyn

Code No. 25/2007/0642/PF

Construction of 13 wind turbine generators (up to 125m in overall height) c/w electrical control room & compound area, new and improved access tracks, underground cabling, 80m anemometry mast, ancillary works and equipment; temporary construction works; new vehicular access from the minor country road; removal of conifer forest

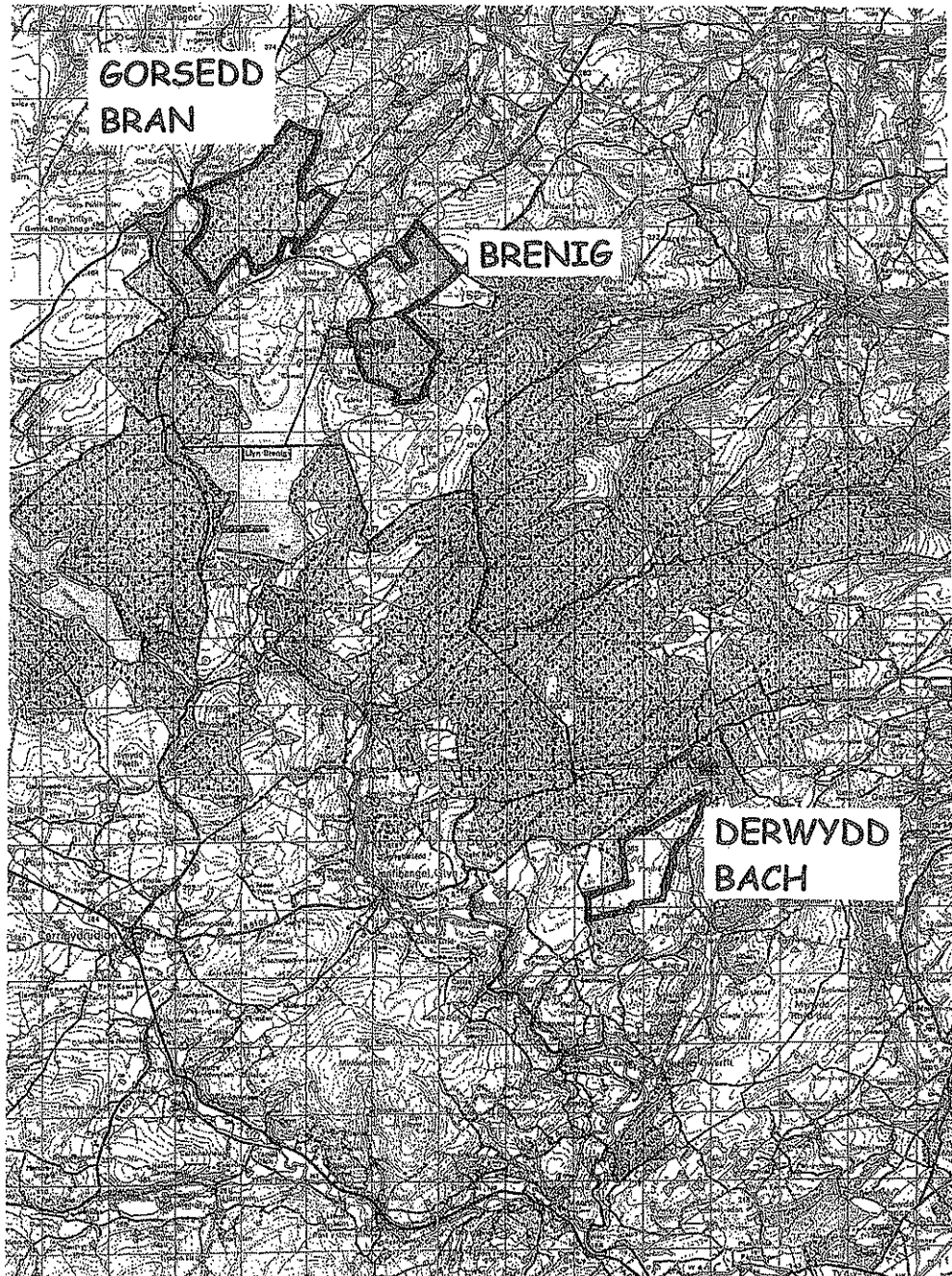
Gorsedd Bran Nantglyn

2. BACKGROUND TO THE APPLICATIONS

- 2.1 The applications before the Committee have been submitted in the course of 2007, and relate to two sites in close proximity south west of Nantglyn. These are referred to as Brenig and Gorsedd Bran. The relative location of the two sites is shown on the plan at the end of this introductory report, which also indicates the Derwydd Bach site near Melin y Wig, which is the subject of a separate application to develop a windfarm, to be reported to a future meeting of the Committee.
- 2.2 The fact that the two applications are reported to the same Committee is simply as a

result of important consultation responses being received, and key issues being resolved at around the same point in time.

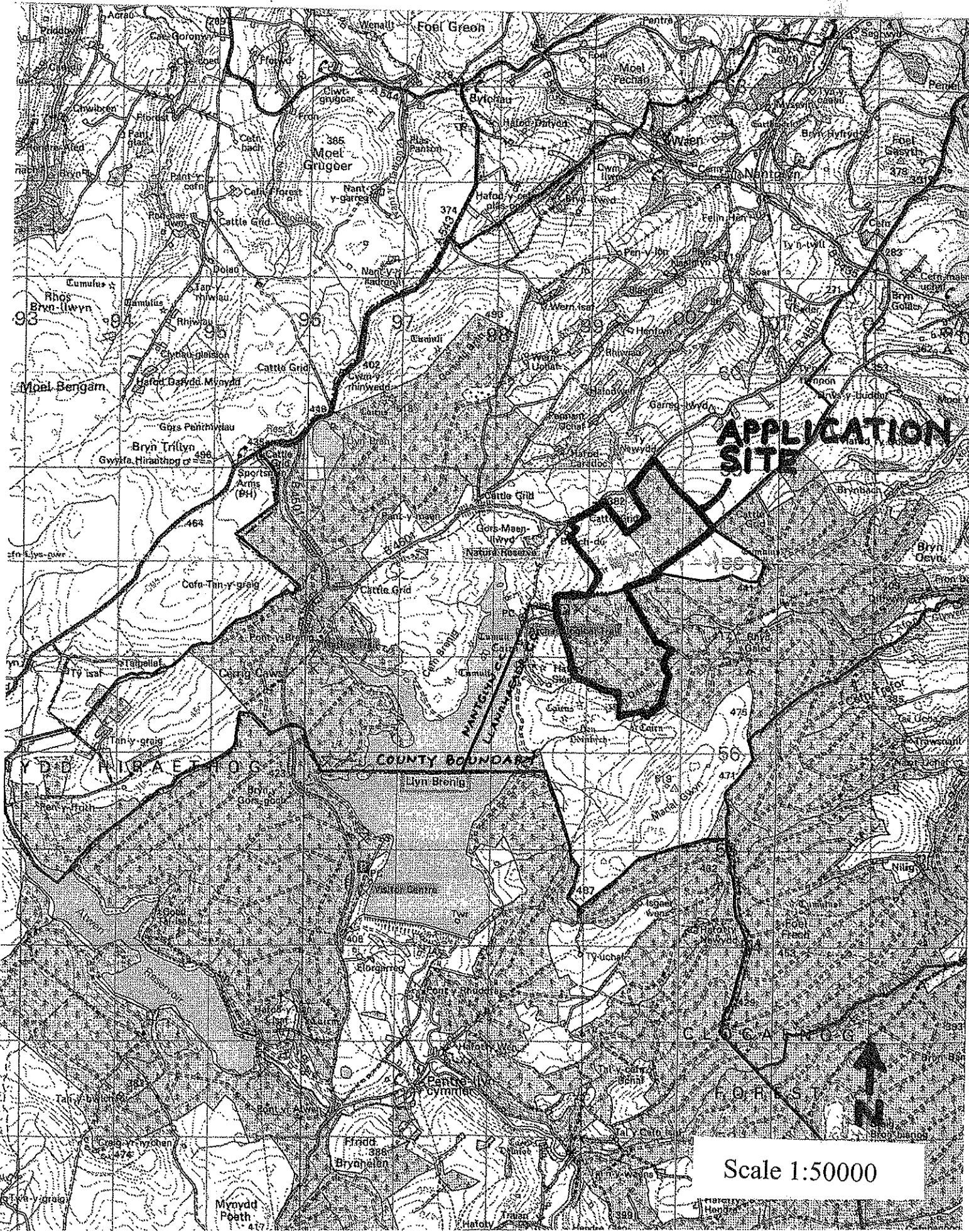
- 2.3 Whilst there are a number of issues common to both applications, members will appreciate that each proposal has to be considered strictly on its particular merits. The reports on the two applications cover a wide range of topics, and deal with these in some detail to assist in the decision making progress. There are a number of maps and documents attached as Appendices to each of the reports which cross reference to the specific contents of those reports.
- 2.4 The sequence in which the applications are presented is in straightforward 'date received' order. With the agreement of the Committee Chairman, provision has been made for up to 2 speakers for or against on each application, all subject to the 3 minute time limit.



Windfarm planning application sites

THIS IS AN INFORMATION ITEM AND THERE IS NO RECOMMENDATION WITH THIS INTRODUCTORY REPORT.

Brenig windfarm - location plan



ITEM NO: 5

WARD NO: Llanrhaeadr Yng Nghinmeirch

APPLICATION NO: 25/2007/0565/ PF

PROPOSAL: Construction and operation of a wind farm comprising of sixteen wind turbines with a maximum tip height not exceeding 100m, along with transformers, access tracks, on-site switchgear and metering building, two anemometry towers and associated construction and operational infrastructure

LOCATION: Land East of Llyn Brenig Nantglyn

APPLICANT: Brenig Wind Limited

CONSTRAINTS: SSSI
Public Footpath / Bridleway
Open Country (CROW act)

PUBLICITY UNDERTAKEN: Site Notice - Yes Press Notice - Yes Neighbour letters - Yes

CONSULTATION RESPONSES:

1. NANTGLYN COMMUNITY COUNCIL

"A meeting was held in Nantglyn on 14th August to which all local residents were invited. The purpose of the meeting was to consult with local residents with regard to the above applications. The meeting was well attended.

The Council were unanimously asked to strongly object to both applications. Nantglyn is the closest community to the proposed developments and we therefore ask that you give appropriate weight to this objection.

The following is a summary of the concerns expressed by local residents.

Noise

A number of local people are already impacted by noise from the existing Tir Mostyn development. Even those who are not so impacted are concerned lest the cumulative impact of two more developments should tip this balance. It was stated that the impact would widen the sector from which the wind blows. There was also concern as to how noise complaints might be dealt with when dealing with three different developments. Particular concern was expressed regarding the Gorsedd Bran development.

Visual

Again the issue of the cumulative impact was expressed. The fact that the turbines at Tir Mostyn are only 75m whilst the new ones would be up to 125m was a consideration.

Water

Some residents are concerned regarding disturbance to their water supplies.

Decommissioning

It was felt that a bond should be secured to ensure adequate decommissioning.

Electricity Connection

A great deal of discussion took place on this issue. It is concerning that no information is available as to how the turbines will be connected to the grid. It is feared that a number of developers within the SSA might join together resulting in new pylons being erected.

Property Prices

All present at the meeting were convinced that the Tir Mostyn development had already affected the prices of properties in the area. There are instances of potential buyers withdrawing when they hear of

new turbines.

Construction

It was felt that very little local labour or suppliers would benefit from the developments. There was also concern regarding disruption during construction.

Trees

Many residents don't understand why it is being permitted to remove large areas of forest to accommodate wind turbines. Trees absorb CO². They also benefit water absorption in the ground.

Because of all the above, please record this council's strong objection to both applications".

2. LLANRHAEADR Y.C. COMMUNITY COUNCIL

"1. The majority of local residents and electorate oppose the planning application.

2. The development is considered likely to result in significant harm to the character and quality of an attractive rural landscape and to contribute to an unacceptable cumulative and sequential visual impact with other existing, approved, and potential future wind turbine developments in the area.

3. The development is considered likely to have a significant adverse effect on the residential amenities of local properties.

4. The development would lead to an unacceptable noise levels to residential amenity in the surrounding area and villages.

5. The development would cause unacceptable harm to the enjoyment of the landscape for recreational and tourism purposes.

6. The development would have an impact on wildlife such as the Red Kite bird of prey which relies on the existing Forestry environment.

7. The clear fell of such a large area of forestry should not be allowed as this would have an affect on local employment, CO₂ omissions, etc.

8. The current infrastructure would not be able to cope with the additional works, traffic, etc.

9. The water table would be affected.

10. The area currently is considered an area of outstanding beauty".

3. CYFFYLLIOG COMMUNITY COUNCIL

"1. The majority of local residents and electorate oppose the planning application.

2. The development is considered likely to result in significant harm to the character and quality of an attractive rural landscape and to contribute to an unacceptable cumulative and sequential visual impact with other existing, approved, and potential future wind turbine developments in the area.

3. The development is considered likely to have a significant adverse effect on the residential amenities of local properties.

4. The development would lead to an unacceptable noise levels to residential amenity in the surrounding area and villages.

5. The development would cause unacceptable harm to the enjoyment of the landscape for recreational and tourism purposes.

6. The development would have an impact on wildlife such as the Red Kite bird of prey which relies on the existing Forestry environment.

7. The clear fell of such a large area of forestry should not be allowed as this would have an affect on local employment, CO₂ omissions, etc.

8. The current infrastructure would not be able to cope with the additional works, traffic, etc.

9. The water table would be affected.

10. The area currently is considered an area of outstanding beauty”.

4. DERWEN COMMUNITY COUNCIL

”1. The majority of local residents and electorate oppose the planning application.

2. The development is considered likely to result in significant harm to the character and quality of an attractive rural landscape and to contribute to an unacceptable cumulative and sequential visual impact with other existing, approved, and potential future wind turbine developments in the area.

3. The development is considered likely to have a significant adverse effect on the residential amenities of local properties.

4. The development would lead to an unacceptable noise levels to residential amenity in the surrounding area and villages.

5. The development would cause unacceptable harm to the enjoyment of the landscape for recreational and tourism purposes.

6. The development would have an impact on wildlife such as the Red Kite bird of prey which relies on the existing Forestry environment.

7. The clear fell of such a large area of forestry should not be allowed as this would have an affect on local employment, CO2 omissions, etc.

8. The current infrastructure would not be able to cope with the additional works, traffic, etc.

9. The water table would be affected.

10. The area currently is considered an area of outstanding beauty”.

5. CLOCAENOG COMMUNITY COUNCIL

”1. The majority of local residents and electorate oppose the planning application.

2. The development is considered likely to result in significant harm to the character and quality of an attractive rural landscape and to contribute to an unacceptable cumulative and sequential visual impact with other existing, approved, and potential future wind turbine developments in the area.

3. The development is considered likely to have a significant adverse effect on the residential amenities of local properties.

4. The development would lead to an unacceptable noise levels to residential amenity in the surrounding area and villages.

5. The development would cause unacceptable harm to the enjoyment of the landscape for recreational and tourism purposes.

6. The development would have an impact on wildlife such as the Red Kite bird of prey which relies on the existing Forestry environment.

7. The clear fell of such a large area of forestry should not be allowed as this would have an affect on local employment, CO2 omissions, etc.

8. The current infrastructure would not be able to cope with the additional works, traffic, etc.

9. The water table would be affected.

10. The area currently is considered an area of outstanding beauty”.

6. COUNTY ARCHAEOLOGIST
No objections, subject to implementation of mitigation measures in the Environmental Statement.
7. COUNTY ECOLOGIST
Requests, in the event of a permission being granted, the production of a Habitat Management Plan and suitable surveys of wildlife and water features.
8. HEAD OF TRANSPORT & INFRASTRUCTURE
Raises no objections, subject to inclusion of conditions relating to the detailing of the site access, arrangements for loading/parking etc. within the site, and routing of vehicles and appropriate traffic management.
Is satisfied that the approach roads identified for delivery vehicles have adequate capacity, with minor improvements.
- Footpaths Officer:
Draws attention to the line of Public Footpath No. 67, which runs through the existing Tir Mostyn windfarm site, and crosses the application site in an East-West direction. The path has been the subject of an application in 2001, for upgrading to a Bridleway, by the British Horse Society, which needs to be taken into account. (See Highways Impact section of the report).
9. PUBLIC PROTECTION MANAGER
- i) Pollution Officer
Confirms that having liaised with the Council's Noise Consultant, is in agreement with his recommendations and approach to dealing with the application. States the proposed noise conditions should give sufficient control over windfarm developments to ensure, even cumulatively, they cause minimal disturbance to local residents.
 - ii) Scientific Services Officer – Water Quality/Pollution
Does not object to the application, but draws attention to private properties in the locality which are reliant on streams for water supply. Requests consideration of measures to ensure no adverse impacts on supplies in particular at construction stage (e.g. sedimentation or other pollution).
10. CLWYDIAN RANGE AONB JOINT ADVISORY COMMITTEE
"The JAC strongly objects to the application on the grounds that it will impact on distant views from the AONB and will have a detrimental effect on the enjoyment of the Clwydian Range, particularly for users of the Offa's Dyke National Trail and Moel Famau Country Park. The cumulative effects of this application when considered in conjunction with the existing Tir Mostyn windfarm and the permitted Wern Ddu scheme will have a seriously harmful impact on views from the AONB, which will diminish the quality of this nationally protected area. The JAC also has concerns about the wider environmental impacts of the development, including loss of regional biodiversity, hydrology and potential flooding arising from the loss of existing tree cover and the potential impact of electricity grid connections".
11. CONWY COUNTY BOROUGH COUNCIL
"The proposal was considered at the Planning Committee at its July meeting, when it resolved to raise no objection to the proposal".
12. CLWYD POWYS ARCHAEOLOGICAL TRUST
Agree with the mitigation proposals in the Environmental Statement, and request as a condition of any consent, the requirement for a watching brief and an appropriate buffer zone marking identified archaeological sites.
13. COUNTRYSIDE COUNCIL FOR WALES
Acknowledge that the development conforms to TAN 8 and Interim Planning Guidance relating to large wind farms in the Strategic Search Area.

Initially expressed concerns over potential adverse impact on :-

- i) Semi-natural vegetation of Mynydd Hiraethog SSSI.
- ii) Character of Mynydd Hiraethog Landscape of Special Historic Interest.

Following discussion with the applicants and the submission of additional information, CCW have withdrawn their 'holding objection' to potential impact on the SSSI, provided proposals for limiting damage and disturbance, and proposals for restoration of habitat are incorporated into a suitable

planning condition. CCW have also indicated that in similar vein, their objections to the impact on the Landscape of Special Historic Interest could be withdrawn if consideration could be given to arrangements for a 'compensatory package' for an exhibition in the Brenig Visitor Centre/accompanying literature interpreting the making of the historic landscape, the impact of climate change, and the importance of maintaining its capacity to act as a 'carbon sink'.

14. CAMPAIGN FOR THE PROTECTION OF RURAL WALES
No response received (see Hiraethog Alliance response)
15. RSPB CYMRU
Does not object to the application.
RSPB Cymru has carried out an ecological masterplanning exercise in relation to the Clocaenog Windfarm Zone and vicinity with the North Wales Wildlife Trust and CCW, in order to identify at strategic and spatial level habitat management/restoration targets. This is referred to as the Statement of Environmental Master Planning Principles (SEMP). DCC have approved and incorporated the principles of SEMP into the Interim Planning Guidance on Onshore Wind Farms.
RSPB welcome the developer's commitment to manage land in the vicinity of the site boundary for wildlife, and confirm these are in conformity with the SEMP and IPG. Would request additional details of the habitat management, and the use of a Section 106 agreement to deliver the work to restore upland heath on the site and in the vicinity (to include a Land Management Plan (LMP), and steering group to oversee implementation.
RSPB outline specific enhancement works which have been discussed with the applicant as part of a Community Benefit package: and are satisfied that in conjunction with CCW, any negative impact conifer removal may have on red squirrels will be outweighed at this site by a programme of grey squirrel control (grey squirrels being a more serious limit on the viability of red squirrel population at Clocaenog than conifer removal).
16. NORTH WALES WILDLIFE TRUST
No response received
17. CADW
No response received
18. NTL
No response received
19. ITC
No response received
20. SPECTRUM PLANNING GROUP
No response received
21. BBC (RESEARCH AND DEVELOPMENT)
No response received
22. OFCOM
(Deal with fixed microwave links managed by OFCOM)
Confirms that no civil fixed links should be affected by the proposals.
23. T-MOBILE
No response received
24. BT
No response received
25. IONICA
No response received
26. VODAFONE
No response received

27. CABLE & WIRELESS (FREQUENCY SPECTRUM PLANNING)
Advise that they have no radio links in the Denbighshire area, and have no objections to this proposal.
28. NATIONAL GRID WIRELESS
(formerly CROWN CASTLE UK)
(N G W are responsible for providing the BBC's transmission network and for ensuring the integrity of Re-broadcast links).
Are aware that the Tir Mostyn windfarm causes some interference to a Re-Broadcast link, but tests show this is not sufficiently bad to disrupt operations. Anticipate that as the Brenig site is further away from Cerrigydrudion than Tir Mostyn, there should be less chance of interfering with the link, although cumulative impact may cause disruption. Options exist for a 'mid point' receiver/retransmitter if necessary.
29. LIBERTY COMMUNICATIONS
No response received
30. JOINT RADIO COMPANY
(Analyse proposals to assess potential interference to multipoint telemetry and telecontrol radio systems operated by utility companies).

Do not foresee any potential problems.
31. HOME OFFICE
No response received
32. CELL NET
No response received
33. ORANGE
No response received
34. O²
Advise that the site is 10km from current operational sites and that they have no further plans for this site.
35. CSS SPECTRUM MANAGMENT SERVICES
No objection
36. MCA
No response received
37. CIVIL AVIATION AUTHORITY
In response to consultation on the submitted application, refer to pre-application advice, and comment that their position remains unaltered:
- i) They do not believe there are any aerodrome associated issues
 - ii) There may be a need to install aviation obstruction lighting (this is dependent on height and if concerns are expressed by other aviation bodies).
 - iii) All structures over 300 feet high have to be chartered on aviation maps. It is the developer's responsibility to provide details to the Defence Geographic Centre.
- Stress the need to consult with MoD (Defence Estates) and NATS (formerly National Air Traffic Services).
- (For clarification, current advice in TAN 8 is that warning lights are required by CAA on structures over 150 metres high).
38. DEFENCE ESTATES
Ministry of Defence have no objections to this wind farm. Require information from the developer if permission is granted so records can be updated and that military aircraft avoid this area.
39. NATIONAL AIR TRAFFIC SERVICES
(NERL Safeguarding)

Having examined the proposed development from a technical safeguarding aspect, confirm that NATS (En Route) Public Limited Company (NERL) has no safeguarding objection to the proposal.

NATS have also confirmed in response to requests for clarification of their comments, that these are in relation to the details submitted as part of the planning application, and not pre-application/scoping stage consultation, and that issues of cumulative impact with other windfarms was considered.

40. MARITIME & COASTGUARD AGENCY

Does not wish to submit any observations.

41. THE RAMBLERS (North Wales Area)

Object to the application.

Recognise the need to develop sources of renewable energy, but this must be consistent with the nation's primary objective to reduce greenhouse gas emissions and be consistent with the Ramblers' countryside objectives.

Consider the Brenig wind farm will have an infinitesimal effect on greenhouse gas emissions yet will have a significant and negative impact on the countryside of the region.

Specific objections are:

- i) Application is on access land designated under the Countryside & Rights of Way Act 2005.
- ii) Cumulative impact with Tir Mostyn windfarm.
- iii) Impact on tourist attraction at Brenig, Clwydian Way trail, rural economy.
- iv) Safety issues.
- v) Noise.

42. BRITISH HORSE SOCIETY

No response received.

43. ENVIRONMENT AGENCY WALES

Raise no objections.

Suggest inclusion of conditions on any permission to require a detailed site assessment of water features and their treatment, and measures to control spillage of oils, fuels and chemicals at construction stage. In relation to flood risk, raise no objections subject to inclusion of conditions dealing with control of run off.

44. HEALTH AND SAFETY EXECUTIVE

HSE do not require notification of applications outside the Consultation Distance of Major Hazard sites/pipelines.

(There are no listed hazards in the vicinity of the site).

45. WELSH ASSEMBLY GOVERNMENT

(Department for Sustainability and Rural Development)

Note the land is Grade 5 quality in the Agricultural Land Classification Maps. Work on the borrow pits and afteruse need to take into account advice in Minerals TAN 1 Section D, and the need for consultation on agricultural afteruse in accordance with TAN 6 Annex C3.

46. WALES TOURIST BOARD

Advise that the Board was merged with Welsh Assembly Government in 2006 and it would be inappropriate to comment on the application.

47. DART

(Denbighshire Against Rural Turbines)

Object:-

- i) It is impossible to satisfactorily assess cumulative impact without reference to other windfarm schemes which have not yet come forward (e.g. Forestry Enterprise Land in Clocaenog Forest). Consideration should be delayed until the authority is better acquainted with the location/details of that scheme.
- ii) The location is inappropriate and development will seriously affect the recreational enjoyment of Llyn Brenig.

TAN 8 accepts landscape change is inevitable in the Strategic Search Areas, but the environmental effects cannot be justified by the project's benefits in terms of power generation.

48. CLOUT
(Conwy Locals Opposing Unnecessary Turbines)
No response received (see Hiraethog Alliance reponse)

49. PACT
No response received (see Hiraethog Alliance reponse)

50. HIRAETHOG ALLIANCE
("Alliance of Ramblers Association, CPRW branches, PACT, DART, and CLOUT. Protecting the Landscapes of the Hiraethog Area").

Suggest the application should only be decided when the cumulative effects of all the other applications within the IPG area that are in operation, at planning application stage or scoping can be considered together, including the potential Clocaenog Forest site (Forestry Enterprise Land).

Specific objections are:-

Noise – need to assess cumulative impact with other sites/there are flaws in ETSU-R-97 methodology/planning conditions based on it do not take into account multiple applications, sound transfer issues, types of noise, etc.

Tourism- - potential impact on small-scale tourist facilities in the area.

Ecology – further independent investigation of impact on bat colonies is required.

Community benefit – offer of 'developer gains' should not influence the decision making process.

Liability to residents – impact on water supplies, noise and landscape, property value, tourism income.

EIA issues – Deficiencies in cumulative visual impact assessment, limitations in value of photomontages, misleading statements on CO² savings.

Health and Safety issues – concerns over structural stability of turbines and blades, and need for risk assessments.

As part of the assessment of the application, the County Council has commissioned separate independent reviews of the Environmental Impact Assessment, and the noise appraisal within the Environmental Impact Assessment. The conclusions of these reviews are summarised below:

Institute of Environmental Management and Assessment (IEMA) review of the Environmental Impact Assessment

The Council has sought similar reviews by the IEMA of previous wind turbine applications, The IEMA are an independent body used by many local authorities to undertake qualitative assessments of Environmental Statements (ES), based on UK best practice guidance, not simply statutory requirements.

The IEMA review is based on the contents of the ES and acknowledges that there will be complex technical issues where specialist advice is necessary. It addresses, in turn, the information contained in the ES; an overview of how the ES deals with baseline conditions, the prediction of impacts, evaluation of significance, mitigation and follow up; areas where the ES could be strengthened; the overall presentation and communication of information; and ends with recommendations.

The IEMA grades the ES against its Review Criteria into A-F grades. In relation to most sections, the ES is Graded C or better, C being 'satisfactory despite omissions and inadequacies'. In relation to the objectivity of the ES, the IEMA applies a C grade and notes that it provides information on the positive and negative aspects of the development, and identifies significant adverse impacts, although at times it appears to indicate an underlying assumption in favour of the windfarm.

Additional information has been sought from the applicants as a result of the IEMA review, and this is referred to as appropriate elsewhere in the report.

Appraisal of Noise Assessment by County Council's Acoustic Consultant

The Council has engaged specialist consultants, (New Acoustics of Clydebank) to undertake a detailed review of the Noise Assessment in the Environmental Statement, and to look critically at the baseline survey work, methodology for assessing impact, consistency with ETSU guidance, the issue of Cumulative Noise Impact, and the practicality of controlling noise levels by condition in the event of permission being granted. For consistency, The same Consultant has also been commissioned to undertake the same type of review for the Gorsedd Bran and Derwydd Bach applications.

The evaluation of noise impact has become more complicated as a result of the submission of a number of windfarm applications at the same period in time, and the likelihood of further such applications in the SSA. One of the key issues is how noise limits and margins above background levels should relate to the cumulative effect of turbines in the area, as received at specific properties, bearing in mind that the ETSU guidance requires that noise limits are to be met by all wind farms in total. In order to progress matters, and having regard to the possibility of further windfarm applications in this area, detailed discussions have taken place between the agents, their noise Consultant, public protection officers and the Council's Consultant, on a completely 'without prejudice' basis, to explore how a common approach may be developed to establish background noise levels, a standard method for calculation of turbine noise, and how a standard can be applied to individual windfarms that would result in the overall ETSU noise standard still being met. The Council's Consultant has taken a lead in this process by drafting a report on the approach to Cumulative Impact Assessment, and suggestions for methodology for assessing background noise levels, calculating turbine noise, modelling cumulative levels, and setting an appropriate noise standard.

Following the dialogue with the applicant's Noise Consultant, The Council's Consultant has forwarded a final report on the noise section of the Environmental Statement. The main points of relevance to the application are:

- The measurement of background noise levels have been carefully and properly done.
- The Council's Consultant has produced what he believes to be more credible representations of the real background noise at different locations and explains in detail why it is preferable to establish a 'standard' background noise level for all windfarms. He comments on the turbine noise level assumed for noise immission predictions, and recommends that the applicants either confirm that turbines will be specified with a sound power level not exceeding those of the V80 in quietest mode, or reassess the worst case noise levels.
- A separate assessment and calculations have been made on turbine noise levels, with regard to the standard proposed as acceptable for the cumulative effect of other windfarms. Whilst turbine noise levels from Brenig and Tir Mostyn combined exceed the proposed cumulative standard at 3 properties, 2 of these have financial involvement with the scheme, and meet the higher standards applicable at the third property, as the Brenig scheme would only add a further 0.5dB to the existing noise level generated by Tir Mostyn, it is considered unreasonable to penalise the Brenig application at this location. At no other properties would Brenig have significant cumulative impact.
- There is a large measure of agreement on cumulative impact issues with the applicant's acoustic consultants, although there are areas of difference over the use of 'warranted turbine noise levels' rather than noise levels, and whether planning conditions using the Council's Consultant's assessment method comply with ETSU and may be open to challenge.
- The report of the Council's Consultant suggests the imposition of four conditions in the event that planning permission is granted. The conditions require:
 - The carrying out, on the reasonable request of the local planning authority, and at the developer's expense by an independent consultant appointed by the Council, of detailed surveys of noise levels, specifically:
 1. Measurement and assessment of noise imissions from the turbines
 2. Measurement and assessment of tonal noise from the development
 - The logging by the operator of wind speed and direction, to allow monitoring of 1 and 2; and the availability of the data on request by the Council.
 - The operation of the turbines within noise levels set out in a separate annex. Separate guidance notes would be attached to assist the interpretation of the noise conditions, measurements etc.

On the separate matter of low frequency noise, the Council's Consultant has indicated he is aware of research on Vibro Acoustic Disease (VAD), but considers this fails to demonstrate the precise nature of VAD, or that there is a causal link between Infrasound and Low Frequency Noise, and VAD. He suggests there is far more evidence that

infrasound and low frequency noise from wind turbines are substantially less than many other daily exposures we receive, e.g. from noise levels inside cars, road traffic noise.

RESPONSE TO PUBLICITY:

Up to the time of drafting this report, representations have been received from some 218 private individuals in relation to the application.

Of these responses, 52 contained objections, and 166 expressed support for the scheme.

The origin of the letters is as follows:-

Community area:	IN OBJECTION	IN SUPPORT
Nantglyn	31	10
Llanrhaeadr YC.	4	15
Denbigh		1
Cyffylliog		12
Clocaenog		4
Derwen	1	
Henllan		6
Other communities in Denbighshire:-		
Corwen	1	3
Ruthin	1	1
Trefnant	2	1
St. Asaph	1	
Betws Gwerfil Goch	1	
Rhyl		1
Communities in:		
Conwy	5	88
Flintshire		6
Gwynedd	1	12
Wrexham		2
Powys		1
Anglesey		1
Other parts of Wales		
Cardiff	2	1
Swansea	1	
Elsewhere:		
London	1	
Oswestry	1	
TOTAL	53	165

One of the e-mail responses refers to an 'e-petition' sent to the Prime Minister, which contains 38 signatories. The petition states: "We the undersigned petition the Prime Minister to ask the Welsh Assembly and First Minister for Wales to revise Planning Guidance TAN 8 so as to narrow the area where additional windfarms can be developed in communities where there are current windfarm developments".

A summary of the representation follows:

<u>The main points in letters in SUPPORT of the application</u>	Approximate no. of Representations
General Renewable energy schemes merit support/clear lead at national level from Stern review/abundant potential to produce renewables/need to look to the future/reduce CO ² production technology is safe and causes limited damage on the environment/good return on investment/have to accept need to develop options for generation/turbines are attractive in their landscape setting/other fossil based energy sources will be in short supply/turbines are pleasing on the eye/there is limited noise from turbines/turbines can be removed in the future/there is limited wildlife impact.	129

<p>Specific to the site Site is within the TAN 8 search area/would be adjacent to existing windfarm site. Site is remote so will not be visible to human residents/there are no environmental constraints/limited ecological impact.</p>	6
<p>Local benefits Development is locally owned/community package gives money back to the local community/will generate local employment/support local farming community.</p>	35
<p><u>The main points in OBJECTION to the application</u></p>	
<p><u>In terms of the PRINCIPLE of clean/renewable energy and wind turbine development.</u></p> <p>Questionable rationale of impact on climate change/system relies heavily on subsidy/any climate change gains are not justified by the environmental impact/statements on benefits in Environmental Statement should be challenged/there will always be a need for back up sources of generation/wind power is intermittent and efficiency claims are overstated/power is lost in transmission/manufacture of turbines brings about significant releases of CO²/there are better options – other renewables, nuclear/tidal power, offshore windfarms/process of dealing with proposals on a bit by bit basis is unreasonable/project would only contribute theoretical and political targets, and not a reduction in global emissions/claims over the 'household equivalents' which could be served by the development, and the CO² savings are overstated and should accorded reduced weight.</p>	20
<p><u>In terms of local impact</u></p> <p><u>Landscape and visual impact</u></p> <p>Unacceptable/overwhelming landscape/visual impact of 100m high turbines/cumulative impact on local landscape/taller than Tir Mostyn turbines/significant negative impact/desecration of Hiraethog landscape/cumulative impact can not be judged properly until applications for other schemes in the area have been lodged with other authorities/we should treasure our Welsh landscape/Tir Mostyn scheme already has negative impact/industrial scale development/no need to build higher turbines/development should not be allowed on a one off basis, but only when Clcoaenog Forest application is received/disproportionally negative cumulative landscape and visual impact from number and height of turbines compared with Tir Mostyn.</p>	43
<p>Impact on landscape of Historic Interest</p>	1
<p><u>Amenity impact</u></p> <p><u>Noise</u></p> <p>Already obtrusive impact/nuisance from Tir Mostyn windfarm/larger and more turbines will mean more noise/cumulative noise impact will be significant and unbearable/adverse effect on amenity and health of residents/impacts have to be assessed independently/will effective monitoring be carried out/promises were made that there would be no noise from Tir Mostyn/no consents should be given until the effects of Tir Mostyn are fully investigated/no assurances can be given that there will be no noise/there have to be watertight conditions and enforcement procedures in place/Reliance on ETSU-R-97 as a 'standard for assessment of noise should be questioned.</p>	38
<p>Potential Infrasound and Low Frequency Noise issues need to be addressed.</p>	4
<p>Incidence of 'white noise'low frequency noise/vibration and effect on public health</p>	
<p><u>Nature conservation/ecology</u></p>	

Concerns over proposed clearance of trees/reduction in CO ² absorption/reduction in amenity value of Clocaenog Forest go against basic conservation and sustainability principles/disturbance to peat beds.	20
Impact on wildlife/risk of disruption to habitat/adverse impact on bat population/questionable accuracy of conclusions on effect on other species e.g. red squirrels.	10
<u>Highways</u> Construction of Tir Mostyn caused problems – damage to roads responsibility for repairs etc. must be placed on developers	2
<u>Archaeology</u> Damage to unique Archaeological landscape and heritage/archaeological trail	3
<u>Hydrology/geology</u> Potential impact from run off into reservoir at construction stage	1
<u>Rural economy</u> Impact on tourism understated/tourism is a valuable part of local economy/cumulative impact of turbines will be more marked/effect on attractiveness of the Brenig area as a recreation resource will be threatened.	16
<u>Other general points</u> Welsh Assembly Government policy/National policy is inconsistent/Information in the Environmental Statement is unclear on noise, there are questions over Air Safeguarding responses (whether responses relate to current application or scoping stage information, and why stance of NATS appears to have changed).	2
Public safety Potential interference or impact on radar/defence systems/air traffic safety/general concerns over structural safety of turbine towers and blades.	2
Impact on Tir Mostyn Windfarm Layout will materially reduce clean power generated by Tir Mostyn/Tir Mostyn and Brenig windfarms will interfere with one another's generation potential.	1
Impact on property value	3
Limited employment benefit There are negligible long term employment benefits for the area/Tir Mostyn proved promises to promote local labour were hollow	5
Limited Community Benefit Benefits are for a few local farmers/landowners, and venture capitalists	2
Absence of information on grid connection High voltage lines could have as much impact as the turbines/Residents seem to have no say in the routing of power lines/application should not be considered without this information.	10
Consultation process is a sham. Council will not listen to local opinion/will follow Government policy/waste of time objecting. How much money does Denbighshire get from the companies building windfarms?	1 1
Precedent Enough is enough/no more turbines/too many in this area/Nantglyn has made its sacrifice for wind power generation/floodgates are open.	12

A list of persons who have submitted representations is included as Appendix 7 to the report.

EXPIRY DATE OF APPLICATION: 03/07/2007

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations
- additional information required from applicant
- re-consultations / further publicity necessary on amended plans and / or additional information

PLANNING ASSESSMENT:

THE PROPOSAL:

13. The application is seeking planning permission for:-

- i) The erection of 16 wind turbine generators, each with an overall base to tip height 'not exceeding 100 metres'. The maximum generating capacity would 'not exceed 50MW (megawatts)'.
- ii) The erection of 2 permanent anemometry towers, each up to 60 metres high and of a lattice construction.
- iii) The erection of a switchgear and metering building, either close to the site entrance, or at the southern end of the site.
- iv) The construction of associated access tracks leading from a single new entrance off the B4501 close to the east of an old cottage Bwlch Du, at the junction with a track leading south to a public parking area near the Brenig Archaeological trail; and the upgrading of some existing forest tracks and the establishment of a construction compound close to the B4501 entrance.
- v) The excavation of borrow pits to provide material for the surfacing of new and improved access tracks (4 are shown on the plans).

13. The site is on and around the hilltop of Tir Mostyn, and immediately to the west of the existing 25 wind turbine development in this location. It is in private ownership. Geographically, the northern tip of Llyn Brenig lies under 1km to the west, and the nearest village is Nantglyn, some 3km to the north. Denbigh is 11km to the north east, and Ruthin 13km to the east.

There is a basic location plan at the front of this report and a number of maps are included as Appendices, which illustrate the location of the site relative to main settlements, private dwellings and other relevant features/designations. These are referred to in subsequent sections of the report.

13. The site stretches over 2.5km from north to south, and 2km from west to east. It includes parcels of land which are currently afforested, and open upland grazing land around Tir Mostyn itself, down to the B4501. Tir Mostyn is shown at an elevation of 492m above sea level. Plan 1 of the appendix is an extract from the application documents and shows the proposed layout of the site. Plan 2 shows the site's relationship with dwellings in the locality. Plan 3 shows the respective position of the site and other existing, proposed, and consented windfarms in the locality.

13. The nearest private properties to the application site are to the north, east and south. The application documents indicate that Ty Newydd is the closest, at 800 metres from the nearest turbine.

13. The application site is located partly within the Community Council areas of Nantglyn and Llanrhaeadr Y.C. The County boundary with Conwy is some 2km to the west.

13. The submission confirms the land areas forming part of the site are in the ownership of persons at Wern to (Llanrhaeadr), Beerford (Oxfordshire) and the North Wales Wildlife Trust.

The owners have been served formal notice by the applicants as part of the application process.

13. The applicant company are indicated as Brenig Wind Limited, with an address in Beerford, Oxfordshire. The agents involved in the application are Natural Power Consultants Ltd., based in Aberystwyth. The documents submitted advise that the application is submitted on behalf of a joint venture between Brenig Wind Limited and Windpower Wales Ltd.

13. The application is one of the most recent of a number relating to wind turbine developments in the area. Plan 3 in the appendix annotates the location of sites in the immediate locality in Denbighshire and Conwy which have been/are the subject of planning applications. In summary these include:

	<u>No. of turbines</u>	<u>Turbine height</u>	<u>Status</u> (Jan 08)
<u>Denbighshire</u>			
Tir Mostyn/Foel Goch	25	75m	Operating
Wern Ddu, Gwyddelwern	4/5	90m/80m	Granted (Appeal June 07)
Gorsedd Bran, Nantglyn	13	125m	Pending
Derwydd Bach, Melin-y-Wig	10	120m	Pending
<u>Conwy</u>			
Moel Moelogan	12	74m/77/81m	Operating
Cwm Penanner	8	93m	At appeal/new application for 3 turbines
Nant Bach (Mwdwl Eithin)	13	100m	Refused
Hafotty Ucha	4	86m	Operating
<u>Gwynedd</u>			
Braich Ddu	3	91m	Operating

For Members' information, it is understood that the basis of Conwy's refusal of the Nant Bach application was the specific impact on ecological interests, the impact on highway users, and landscape impact (including impact on the setting of the Mwdwl Eithin cairn, a Scheduled Ancient Monument).

DETAILS AND PROGRESS OF THE SUBMISSION

13. The application was acknowledged valid in May 2007 and contains the following documents:-

- i) The standard application forms, ownership certificate and fee.
- ii) A detailed Environmental Statement comprising:-
 - a) A non-technical summary
 - b) Volume 1 Environmental Statement (292 pages)
 - c) Volume 2 Supporting figures (Maps, Photomontages/Wireframes)

13. Members will appreciate that a report of this nature can only provide a broad outline of the contents of what is a highly detailed application containing considerable technical content. All the background documents have been, and remain available for inspection prior to the consideration of the application.

OUTLINE OF THE SUBMISSION

13. The main contents of the application documents are summarised in the following paragraphs.

(1) **A non-technical summary**, a 34 page précis of the Environmental Statement, which provides a commentary on the main elements of the proposals and its predicted impacts. On the identified key issues, this states/concludes:-

- i) **The background to renewable energy**
This refers to international, national and regional developments reacting to climate change; the Kyoto protocol limiting greenhouse gas emissions, EU targets, UK government goals to reduce CO² emissions by 2010 by 20% below 1990 levels; Energy White Papers; national and Welsh Assembly Planning Policies including generation targets of 4 TWH from renewables by 2010 and 7 TWH by 2020, 800MW from onshore wind sources; the identification of Strategic Search Areas; and the Denbighshire/Conwy Interim Planning Guidance on Onshore Wind Farms.
- ii) **Wind farm yield**
The summary bases generation calculations on 2.5MW rated turbines and an installed capacity of 40MW for the development which would represent a 2.6% contribution to the TAN 8 target for 2010.

- iii) Site selection design and layout
 Initial desk top investigations of 16 potential sites undertaken in 2005 were refined through evaluation of constraints. The application site was one of three where constraints did not preclude progression through to further detailed survey and investigation. The layout was developed through detailed technical evaluation and following a public consultation. Turbines would be the same size and design, with a tubular tower and 3 blades with an indicative hub height of 60 metres. Generation would begin at wind speeds of 3-5m/second, and machines would cut out at 25m/second. Turbines would be coloured pale blue or grey with a semi-matt finish, and Turbine Performance would be monitored by the permanent anemometer towers. The preferred delivery route for components is the A5 and via Cerrigydrudion. Site tracks, the construction compound, and crane pads would be surfaced with stone quarried from borrow pits within the site.
- iv) Electrical systems and grid connection
 The turbines would be connected to the on-site metering/control building via underground cables following the route of access tracks. The control building would measure 22m x 8m, with a ridge height of 6 metres. The grid connection would be subject to a separate application following negotiation with the National Grid and Scottish Power/Manweb.
- v) Felling operations and construction stage
 77% of the site is covered by commercial forestry. The trees would be cleared in conjunction with the development through a method agreed with a forestry contractor. All construction works would be the subject of a pre-construction method statement. The anticipated lifetime of the turbines is 25 years. Comprehensive decommissioning works would be undertaken at the end of the life of the windfarm.
- vi) Summary findings of the Environmental Impact Assessments
- Landscape and visual effects
 The site is within the TAN 8 Strategic Search Area and the Clocaenog Windfarm Zone in the Interim Planning Guidance. Arising from this, there is recognition that landscape character change, i.e. a significant effect, will arise within and potentially adjacent to the search area, and should be regarded as acceptable having regard to all relevant matters. The development would extend an already existing locally significant landscape character effect (Tir Mostyn).
 - Ecology
 Surveys reveal a sparse bird population and no species of particular conservation concern. Bats are present and mitigation is proposed to maintain flight line corridors, by 'turbine setback' and hedge planting along forestry edges to be felled. Other habitat mitigation can be agreed to protect and extend heath and mire habitat identified within the site.
 - Hydrology
 Impacts from increased sediment at construction stage are considered limited and short term. Silt traps and buffer zones would be designed to protect watercourses.

 No adverse impacts are anticipated on hydrogeology (subsurface water) or geology.
 - Cultural heritage
 Sites of cultural and heritage interest have been identified within the site. Mitigation measures would address any direct impacts. Archaeological investigation and a watching brief can be conditioned.
 - Noise
 The assessment includes a study of the combined noise levels from Tir Mostyn and the proposed turbines. Surveys have determined background noise levels at properties in the vicinity of the windfarm. ETSU noise limits are applicable to the site, as confirmed by Welsh planning advice. Predictions have been made to assess the cumulative noise level of Tir Mostyn and the proposed development. The relevant ETSU lower daytime and night time levels can be met other than at Garreg Lwyd and Ty Newydd, but as both properties would benefit financially from the development, under ETSU procedure, a higher noise limit can be applied, and would be met. For all properties monitored, turbine noise will be audible under downwind conditions at low wind speeds, but this is at generally, low noise

levels and the ETSU limits can be met.

- Shadow flicker
Given the distances from the turbines to the nearest dwellings, assessment of shadow flicker is of low significance.
- Traffic movement
Traffic impacts at construction stage are considered likely to be of low significance on the A5, and of temporarily high significance on the B4501 at Cerrigydrudion. With specific mitigation measures, the overall impact is assessed to be of low significance.
- Public safety
Measures would be taken to ensure public safety around the site at construction phase, including fencing of the public footpaths. The possibility of turbine failure, ice throw, and lighting strikes are not considered significant and no safety risks are expected as a result of public access to the wind farm site. Modern turbine design and sensors trigger shutdown of turbines when malfunction, instabilities, unsafe operation and high speeds occur.
- Tourism
It is concluded that the development is unlikely to have a negative effect on tourism in the Denbighshire region, but that neither would it have a significant positive effect.

The non technical summary refers to the establishment of a Community Fund as part of the development. The principle is that whilst a development of this nature brings about some local benefits, most are felt to be 'wider' benefits to the environment in terms of renewable energy and CO² reductions. Developers are therefore taking a lead from TAN 8 in proposing more tangible links to local communities by setting up mechanisms such as a Community Fund, to which the development would contribute through payment of a specified amount of money per megawatt per annum. The fund would typically be held in Trust and managed and distributed by a local committee made up of representatives of Community Councils, the County Council and any local enterprise groups/parties, who would determine the criteria to be adopted for applications/projects to enable the funds to be released. The statement makes it clear that TAN 8 advises the provision of benefits to a local community is on a voluntary basis, and has no connection to the planning process.

- Mitigation
The statement details a range of mitigation proposals to address issues arising from the proposals, as identified in the evaluation of topic areas.

In conclusion, the non-technical summary suggests the only impacts considered to be significant relate to visual and landscape effects at a local level, and short term wind farm component traffic on the B4501 between the A5 and the site. It considers the landscape impact is outweighed by the location within the TAN 8 Strategic Search Area and the Clocaenog Wind Farm Zone in the Interim Planning Guidance, the suitability of and need for the development, and its benefits – all in line with national and regional planning guidance and policy.

- ii) **The Environmental Statement Volume 1** contains all the environmental assessments undertaken, including a number of appendices with details relating to landscape, ecology, tourism, noise and cultural heritage.
- iii) **The Environmental Statement Volume 2** includes all the maps, visualisations and diagrams, referenced to the Volume 1 assessments.

Members will appreciate that it is normal practice in the course of progressing major applications of this nature, for officers to conduct 'without prejudice' dialogue with applicants and their agents, to clarify key elements of proposals, and to discuss the scope of potential mitigation in relation to a range of land use impacts, in terms of possible planning conditions and Section 106 legal agreements. The relevant issues are outlined within the different headings of the 'Main Planning Considerations' section of the report. It has been made clear to the applicants that the engagement in dialogue does not signify an

indication an officers' part on the likely recommendation on the application at the end of the process of evaluating the proposals.

There are a number of detailed responses to the application, summarised in the Consultations and Publicity sections of the report. Additionally, an independent evaluation of the Environmental Statement has been undertaken for the County Council by the Institute for Environmental Management and Assessment, and the Noise Appraisal in the Environmental Statement has been reviewed by an independent acoustics company (New Acoustics) in conjunction with the Public Protection officers. The site has been visited by the case officer in varying weather conditions, at different times of the day and year.

RELEVANT PLANNING HISTORY:

13. None.

PLANNING POLICIES AND GUIDANCE:

13. There is a complex range of policies and guidance to which the Authority is obliged to have regard in weighing the merits of this application. This section of the report outlines this context in some detail, as it is critical to the determination of the proposals.
13. Policy and guidance relevant to windfarm proposals at the time of considering this particular scheme falls into a basic hierarchy:

The Denbighshire Unitary Development Plan (UDP)

The starting point in relation to all planning applications is the UDP. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out the requirement that planning applications are to be determined in accordance with the relevant Development Plan, unless material considerations indicate otherwise.

The main policies of relevance in the UDP are two relating to renewable energy:

Policy MEW 8	-	Renewable energy
Policy MEW 10	-	Wind power

Other policies with considerations which may be applicable are:-

Policy STRAT 1	-	General
Policy STRAT 2	-	Energy
Policy STRAT 5	-	Design
Policy STRAT 6	-	Location
Policy STRAT 7	-	Environment
Policy GEN 6	-	General development control requirements
Policy GEN 8	-	Planning Obligations
Policy GEN 9	-	Environmental Assessment/Statement
Policy ENV 1	-	Protection of the Natural Environment
Policy ENV 2	-	Development affecting the AONB/AOB
Policy ENV 6	-	Species Protection
Policy ENP 1	-	Pollution
Policy ENP 4	-	Impact of new development on traffic flows
Policy TRA 8	-	Transport requirements in Major developments
Policy TRA 10	-	Public rights of way
Policy CON 10	-	Scheduled Ancient Monuments
Policy CON 11	-	Areas of Archaeological Importance

The relevance of specific UDP policies is detailed in the evaluation of the main planning considerations which follows, and the key policies (MEW 8 and 10) are included as Appendix 4 to the report.

Other material considerations

As outlined, the basic principles of current legislation are that where a proposal is in accordance with the policies of the UDP, planning permission should be granted, unless there are material planning considerations which indicate a contrary view should be taken. Where compliance with the UDP policies is not clear cut, due regard therefore has to be given to other matters which are material to the consideration of the merits of a proposal in determining whether permission should be granted.

'Other material considerations' are considered to include, broadly in terms of the significance of weight

to be attached:

Planning Policy Wales: March 2002

This provides a range of general advice for local planning authorities on:

- Sustainable development (Section 2 outlines the principles, and the role of the planning system in encouraging the use of renewable resources and of sustainability).
- Conservation of Wildlife and Habitats (Section 5 – species protection).
- Tourism (Section 11 – Encouraging Sustainable tourism)
- Sustainable Energy (Section 12 – general principles).

Section 12 has been superseded by Ministerial Interim Planning Statement (MIPPS) 01/2005, which accompanied TAN 8 – Planning for Renewable Energy. This sets out the basic principles established at Kyoto, UK government targets for reductions in CO² emissions, the specific role WAG proposes to play in delivering an energy programme contributing to reducing emissions, targets of electricity production by 2010 and 2020, targets for renewables capacity from strategic onshore wind energy, and identification of Strategic Search Areas for large scale windfarm developments. (See also the following section).

Planning Guidance Wales:

Technical Advice Note Wales 8 – Planning for Renewable Energy, July 2005 (TAN 8) and Ministerial Interim Planning Statement 1/2005 (MIPPS)

TAN 8 and the MIPPS update and supplement Planning Policy Wales 2002, set in the context of UK and national energy policies. As the most up to date Welsh Assembly Guidance, these inevitably carry significant weight as material considerations on renewable energy developments, evidenced in the recent Wern Ddu windfarm appeal decision.

TAN 8 and the MIPPS confirmed a fundamental change in guidance in Wales on the derivation of electricity from renewable energy sources, and introduced the principle of spatial planning for the delivery of WAG's clean energy policy.

The key points are:-

- i) WAG has set a renewable energy generation benchmark of 4 TWh (4 terrawatt hours, or 4,000 Giggawatt hours) from all renewable sources by 2010, and a further target of 7TWh by 2020. These are 'non-negotiable' targets.
- ii) The scenario of renewable energy production for 2010 is:-
 - a) Onshore large scale wind – 800MW
 - b) Other technologies (including offshore wind) – 200 MW
- iii) The 800MW target for onshore generation is set as a minimum.
- iv) The identification of seven 'Strategic Search Areas' (SSA's) which are considered suitable for 'large scale' windfarm developments (Areas are referred to as A-G). SSA 'A' is referred to as the Clocaenog Forest.
- v) Large scale windfarms are referred to as those in excess of 25MW capacity.
- vi) The extent of the Clocaenog Forest SSA 'A' is shown at 'broadbrush' scale on maps within TAN 8. The SSA falls partly within Denbighshire and partly within Conwy. (See Appendix 5).
- vii) 'Indicative capacities' are set for each SSA. The Clocaenog Forest SSA has a 140MW capacity for 2010.
- viii) Outside the SSA's, local planning authorities should encourage proposals for smaller renewable energy developments.

- ix) Local planning authorities are encouraged to undertake 'local refinement' within each SSA to guide and optimise developments.
- x) In relation to the incidence of noise from windfarms, TAN 8 refers to the framework for the measurement of turbine noise in the ETSU-R-97 report, which gives indicative noise levels calculated to offer a reasonable degree of protection to wind farm neighbours. It states the recommendations of ETSU-R-97 'can be regarded as relevant guidance on good practice'.
- xi) Factually, the Brenig site lies wholly within the Clocaenog Forest SSA 'A' as annotated on the TAN 8 plan.

Other Technical Advice Notes

TAN 5 – Nature Conservation and Planning (1996).

TAN 5 contains general advice on the handling of proposals which may affect protected species, and areas with special designations (Sites of Special Scientific Interest, Special Areas of Conservation etc).

TAN 6 – Agricultural & Rural Development (2000).

TAN 6 outlines considerations relevant to development for agricultural purposes, setting basic requirements to take into account the quality of agricultural land and the impact of development on agricultural uses.

TAN 11 – Noise (1997)

TAN 11 relates to the assessment of noise in relation to development proposals. The general guidance is that planning authorities should ensure noise generating development does not cause an unacceptable degree of disturbance; but acknowledges there may be circumstances where it may be acceptable to allow noise generating activities near to noise sensitive development. It recommends the use of planning conditions or obligations to safeguard local amenity, and mitigation measures such as adequate separation distances between noise sources and noise sensitive buildings or areas.

Specifically with regard to windfarm developments, Annex B of TAN 11 refers to advice in TAN 8 (1996), which mentions the use of ETSU-R-97 as guidance on noise assessment. TAN 8 2005 repeats this advice (see note on TAN 8 2005).

TAN 12 – Design (2002)

TAN 12 contains advice and guidance to ensure development is of a high design quality, promoting good design to assist environmental sustainability, economic growth, etc, and encouraging the use of design to mitigate effects of development.

TAN 15 – Development and Flood Risk (2004)

TAN 15 sets out to avoid development in areas where the consequences of flooding will be unacceptable, and seeks to guide new development away from areas at high risk of flooding. In identified Flood Risk areas, planning authorities have to be satisfied that development is justified, and that the consequences of flooding are acceptable. (The application site is not in a Flood Risk area).

TAN 18 – Transport (2007)

TAN 18 outlines a range of considerations to be given to schemes where transport issues are a relevant factor, and how land use planning and transport have a key role to play in supporting the sustainable development approach of the Assembly. So far as the TAN is relevant to applications for wind turbine development, due consideration is required for the highway implications of proposals and the use of conditions or legal agreements to mitigate impacts.

Central Government policy

WAG policy and guidance on the approach to renewable energy production emanate from UK national government. The basis of UK government policy is to address the phenomenon of climate change and to seek the reduction of environmentally damaging gasses, topically referred to as 'greenhouse gasses'. Briefly, by way of background, there is a long history of scientific reports, United Nations conventions, and efforts made to seek commitments for action by nation states, since at least the 1980's. The first major step forward in securing commitments at international level was the signing of the Kyoto protocol in 1997, in which industrialised countries accepted binding targets to limit/reduce greenhouse gas emissions. The Kyoto protocol was finally ratified by Russia in 2005 when it became legally binding. The European Union (EU) has acted on the Kyoto protocol and sought to identify contributions from individual member states; the UK's contribution being a 12.5% reduction in greenhouse gasses below 1990 levels, by 2008/2012. Recent developments include an EU commitment in March 2007 to cut CO²

emissions by 20% of 1990 levels by 2020, and to boost renewable fuel use by 20% to 2020, all subject to ratification and proportional targets for individual countries.

UK government policy has developed out of commitment to International/European Climate Change agreement. Domestic targets for reduced CO₂ emissions have been set beyond the timescale covered by Kyoto, at 20% of 1990 levels by 2010. The UK Climate Change Programme launched in 2000 outlines how these policies are to be achieved, and identifies renewable energy sources as an essential element. Successive energy White Papers update longer term aspirations to cut CO₂ emissions. There has been a significant statement in December 2007 from the Secretary of State for Business, Enterprise, and Regulatory Reform, that some 7,000 turbines will be built offshore to meet EU targets on renewable energy.

Further weight has been added recently to the case for action to control emissions, through the publication of the Stern Review in October 2006, which dealt with the economic impacts of climate change rather than the human/scientific effects, and urged strong collective action to avoid the worst impacts of such changes.

This history reflects a strong government commitment to addressing climate change and CO₂ emissions, and to the development of energy wherever they may be economically and environmentally acceptable. WAG have translated this commitment through TAN 8 and the MIPPS in 2005.

Denbighshire/County Interim Planning Guidance – Onshore Wind Farms (IPG)

In response to TAN 8 and the MIPPS, Denbighshire and Conwy have collaborated in the development of Interim Planning Guidance for Onshore Windfarm developments, to give effect to a 'local refinement' of the SSA 'A' boundary, and to set out local policy (in the context of the TAN). The IPG route has been taken as the timescale for progression of the Local Development Plan is unlikely to result in an approved development plan document with revised policies and plans relating to the windfarm SSA, until 2010.

The 'refinement' exercise on the extent of the SSA was undertaken by Arup, who were involved with WAG in the development of TAN 8, and have been commissioned by a number of local planning authorities nationwide in similar work.

The IPG was adopted at Full Council in February 2007, for use in the consideration of applications, and as a guide to developers and the public. The 'refined' SSA, referred to as the Clocaenog Wind Farm Zone (CWFZ), reduced the physical extent of the 'broadbrush' zone in TAN 8 (excluding, for example, Welsh Water/Dwr Cymru land, which it was understood would not be made available for turbine development), but was still considered capable of accommodating development in excess of the 140MW indicative target in TAN 8 and the MIPPS. The map in Appendix 6 to this report shows the extent of the Clocaenog Wind Farm Zone.

The IPG reinforces the presumption in favour of windfarm development in TAN 8, and specifically large scale (25MW +) windfarm developments within the CWFZ, subject to normal 'local impact' planning considerations. The Brenig site forming the subject of this application falls within the CWFZ.

Aspects of the 'refinement' methodology and related assumptions in deriving the capacity figures for the CWFZ were challenged in the course of the public inquiry into the Wern Ddu Gwyddelwern windfarm proposals in 2007. The appeal Inspector expressed his own reservations at the assumed capacity of the refined zone and its ability to deliver the WAG target, and attached very little weight to the IPG in the determination of the appeals. As an up to date statement from the planning Inspectorate on the status of the IPG, this suggests only limited weight can be given to its contents in the determination of current proposals.

The Denbighshire County Council Landmap study is a comprehensive Landscape Area Character Assessment undertaken by Denbighshire County Council with assistance from the CCW. It provides a useful appraisal of the quality of the landscape and a baseline against which the impact of wind turbine proposals can be assessed.

The Wales Spatial Plan is a Welsh Assembly Government strategy document approved in late 2004, setting out broad principles through which sustainable development may be achieved in the country. The plan looks to promote the development of renewable energy, but does not go into the details of locational criteria dealt with in draft TAN 8.

MAIN PLANNING CONSIDERATIONS:

13. A major application of this nature raises a range of planning considerations, from general principles, to the particular localised impact of the development. This section attempts to review the main issues considered of relevance to deliberations on the merits of the proposals, hopefully to give members sufficient information to determine what weight to attach to considerations, in order to reach a balanced conclusion. There is a short summary and conclusion in paragraphs 21-27.
13. Members will appreciate that there is considerable technical content and a high volume of responses generated on wind turbine applications. Many quite understandable concerns are expressed over detailed effects such as visual impact, noise, health and safety, water supply, wildlife and archaeological impact. It is clear from experiences to date in Denbighshire, and from decisions elsewhere, that a number of detailed 'technical' concerns are capable of being addressed or resolved by using planning conditions or legal agreements. As a principle therefore, members need to apply the normal tests in assessing particular land use planning issues and whether constraints or obstacles can be suitably mitigated or resolved through conditions or obligations, the latter forming the basis of Policy GEN 8 of the Denbighshire Unitary Development Plan.
13. There are also a number of general points raised which it is respectfully suggested need to be placed into appropriate context in the weighing up of the application:
 - i) The merits of National Government policy and Welsh Assembly Government Policy in relation to renewable energy production, including the case for alternative forms of generating electricity and the concentration of wind turbine sites in Wales are not matters for challenge in the determination of an individual planning application for a wind turbine development.
 - ii) The economic and technical case for wind turbine projects remains a matter for National Government and Welsh Assembly Government.
 - iii) The contribution which the Brenig development itself could make to the TAN 8 target for electricity generation in the Clocaenog SSA 'A' is in the order of 28%, and is a tangible benefit which has to be placed in to the balance against other factors relevant to the decision.
 - iv) The key considerations are likely to be those specific to the land use planning impacts of the proposals, hence;
 - Fear of precedence, in itself is not sufficient to justify a refusal of permission.
 - There is no right to maintain unchanged a private right to view over third party land.
 - Protection of private property values can be accorded little weight, as the planning system is based on the exercise of control in the public interest, through protection of the amenities and rights of individuals to enjoy their property and surroundings.
 - v) Developer claims over the precise contribution the windfarm would make to electricity production and CO² savings may be open to challenge, but the issue remains that the development is consistent with the principle of generating electricity by renewable means to meet national policy objectives. Refusal of permission could not be justified on the basis that estimates of electricity production and CO² savings for an individual windfarm may be 'optimistic'.
 - vi) The objectivity or otherwise of the Environmental Statement should not assume great significance in the consideration of the merits of the application. Its contents have been reviewed systematically by the IMEA, and have been assessed in detail by the range of consultees referred to in the report, who have reached their own conclusions on the contents. The contents of the Environmental Statement are considered adequate as a basis for assessing the impacts of the development and for drawing conclusions by the Local Planning Authority, consultees and interested individuals.
 - vii) Public opinion may be a material consideration, and clearly has to be taken into account by the Authority. Members will however appreciate that it is not the number of persons expressing support or objection which is critical, but the relevance of the issues on which their representations are based.

13. There has been extensive consultation with interested bodies, the local community and private individuals on the application. To some, this will be inadequate given the issues involved, but it is considered that within the confines of the system within which the Authority is obliged to operate, there has been adequate opportunity for all sides to make representation on the application, and there is sufficient information on which to make an objective judgement and decision.

13. In this particular case, the main planning considerations are considered to be:-

- i) The principle of developing renewable energy sources.
- ii) Landscape and visual impact.
- iii) Amenity Impact:-
 - a) Noise
 - b) Visual impact
 - c) Shadow flicker
 - d) Electromagnetic interference
 - e) Health and safety
- iv) Nature Conservation.
- v) Archaeology.
- vi) Hydrology.
- vii) Impact on local economy.
- viii) Highways impact.

13. In relation to the main considerations:

i) **The principle of developing renewable energy sources**

There is clear guidance at International, National Government and Welsh Assembly Government level encouraging the development of suitable means of generating electricity through renewable sources, to help reduce greenhouse gas emissions and to address issues of climate change. In support of this policy, WAG have produced TAN 8 and the MIPPS in 2005, and set specific targets for the generation of electricity by onshore windfarms for 2010. TAN 8 establishes the principle of Strategic Search Areas for locating large scale onshore wind turbine developments, and is a significant material consideration on any application for turbine developments in Denbighshire.

Planning policy and guidance/other material considerations

The UDP contains general policies on renewable energy in STRAT 2 and MEW 8 which support the principle of development which captures energy from naturally sustainable sources. MEW 8 offers support as far as this is compatible with other planning policies, but states that development will only be permitted where there is no unacceptable effect on the environmental quality of the locality. The subtext to MEW 8 refers to the Council's commitment to considering the contribution the plan area is able to make in meeting needs on a local, regional and national basis, but emphasises there is no justification for this to be at the expense of other important concerns such as landscape and nature conservation – concluding that "in order to reconcile these different issues, it will therefore be necessary to balance the commitment to encourage renewable energy with the local and national need to conserve the environment and the landscape for its own sake".

Policy MEW 10 deals specifically with wind power developments, stating these will be permitted subject to assessment against 10 specific tests. These are reviewed against the particular issues to which they are relevant in the following sections.

It is of some relevance to the consideration of the application that the Unitary Development Plan's policies date back to 2002, and are largely 'criteria based' in relation to wind turbine proposals. TAN 8 (2005) introduced a very different approach in Wales to the development of onshore windfarms, in the adoption of a locational approach through concentrating large scale windfarms in a number of Strategic Search Areas, with policies relating to them. The County Council reacted quickly to the fact that TAN 8 and the MIPPS are significant statements of policy capable of overriding the now 'outdated' policies of the UDP, and developed the Interim Planning Guidance jointly with Conwy to assist consideration of proposals. The adoption of the IPG in February 2007 confirms Denbighshire's commitment to the principles of TAN 8 and to the development of large scale windfarms in the Clocaenog Wind Farm Zone, subject always to consideration of localised impact.

Summary

National and local policies set a framework offering clear support for the development of renewable energy. WAG's TAN 8 and the MIPPS in 2005, along with the subsequent Denbighshire – Conwy IPG refine the approach on a locational basis, in the guise of Strategic Search Areas, where large wind farms (25MW+) are to be developed. The Clocaenog Forest is one of the Strategic Search Areas. The site lies within both the TAN 8 'broadbrush' SSA, and the IPG's 'refined' SSA, the Clocaenog Windfarm Zone. The principle of developing a large scale windfarm on the application site is in line with these key strategic documents. National and WAG policy is not up for challenge in relation to individual planning applications.

ii) **Landscape and visual impact**

Basis of responses

A high proportion of objections received from private individuals express concerns over the potential visual impact of turbines and the effect these would have on the local landscape. Letters refer to the increasing height of turbines, the potential cumulative impact, and to the desecration of the Hiraethog landscape. Suggestions are made that the cumulative impact can not be fully assessed until applications for other schemes in the SSA have been submitted, and details of any connection to the national grid are included. Letters in support express the views that turbines are attractive features in the local landscape and that they would be removed after 25 years.

Planning policy and guidance/other material considerations

There are specific requirements in the Unitary Development Plan policies in relation to the visual and landscape impact of wind turbine developments. MEW 10 (iii) requires that proposals do not unacceptably harm the character and appearance of the landscape, especially in Areas of Outstanding Natural Beauty and Area of Outstanding Beauty, Local Landscape Areas or the Snowdonia National Park. MEW 10 (viii) requires that proposals do not lead to an unacceptable cumulative visual impact in an area where zones of visibility (with other wind turbine development) overlap, and that particular attention will be paid to the potential proliferation of such developments in any one area. MEW 10 (i) requires details of all ancillary equipment as part of an application. The 'tests' of Policy MEW 10 'detail up' the general requirement that development should only be permitted where there is no unacceptable effect on the environmental quality of the locality.

TAN 8 and the MIPPS are essentially strategic level policy statements and contain limited specific guidance on the consideration of landscape and visual impact in respect of individual planning applications. However, in introducing the concept of SSA's to accommodate large scale windfarm developments, TAN 8 recognises that significant landscape character change will occur in and around those areas, and it establishes the acceptability of the principle of such change. This is reflected in the advice in Annex D of TAN 8, which sets out a methodology for refinement of SSA's by local planning authorities, and states in 8.4:-

"Within (and immediately adjacent) to the SSA's, the implicit objective is to accept landscape change i.e. a significant change in landscape character from wind turbine development".

This is an important statement in the context of how landscape impact has to be considered in relation to wind turbine development.

Whilst the joint Denbighshire – Conwy IPG relating to Onshore Windfarms was given limited weight by the planning inspector at the Wern Ddu appeals, the conclusions of the Arup TAN 8 Annex D study (2005) and the subsequent 'Review of Refinement' Study (2007) are of relevance to the issue of landscape and visual impact. The study and review of refinement included a detailed landscape and visual assessment exercise of the whole SSA and land around it, and subdivided this into spatial areas (zones) of similar landscape/visual characteristics, based on existing landscape assessment studies such as the Denbighshire Landmap. The conclusions of the Arup work was the ranking of these zones within the SSA in terms of their suitability to accommodate turbine development. Of the 10 zones assessed in the review of refinement study, the two which encompass the Brenig site were classed as medium/low in terms of landscape character sensitivity, and placed in the first 'rank' of preference for turbine development. This is an important conclusion from a detailed landscape and visual assessment, which has been accepted by the Council as a basis for the refined SSA and the IPG.

Contents of the application

The application itself contains a detailed landscape and visual assessment, including appraisal of cumulative impact with other windfarms. There are a number of maps and photomontages in support of the assessment, indicating zones of visual influence and visualisations of the development from different viewpoints. The submission recognises there will be significant landscape change within and immediately adjacent to the SSA, but that this would extend an already existing locally significant landscape character effect (the Tir Mostyn windfarm). It concludes that the proposed development would not establish significant character effects in a landscape where none presently exists, and would not give rise to a widespread transformation or modification of landscape character; stating:- "The broader environment would remain one which accommodates wind farm development rather than become one which is dominated and defined by it".

Summary

In looking at the application first in terms of UDP policy, there is inevitably a degree of conflict with tests (iii) and (viii) of MEW 10 as the erection of 16 turbines of 100 metres height will result in harm to the local landscape, and will have a significant cumulative impact with existing and future windfarms in the SSA. It is difficult to conclude otherwise, albeit that the site is not within a formally designated/protected landscape area.

Critically in respect of landscape and visual impact, any conflict with planning policy has to be balanced against other material considerations. In this case, there is unquestionably significant weight to be attached to the presumption in TAN 8 that there will be landscape character change within and adjacent to the SSA's, and that the implicit objective is to accept this change from wind turbine development. These key principles of TAN 8 have been accepted by Denbighshire in adopting the revised SSA boundary in the IPG in early 2007, which included the Brenig site within the Clocaenog Wind Farm Zone.

Ultimately, whilst acknowledging local objections in relation to landscape impact, the identification by Welsh Assembly Government of the Clocaenog area as a SSA for large scale wind turbine developments and the contents of TAN 8 are strong material considerations. Respectfully, it is suggested that the grant of the Tir Mostyn permission, the issue of subsequent WAG policy and guidance in 2005, and the contents of the Arup refinement study fatally undermine any case to oppose the development on landscape or visual grounds, including the cumulative impact with existing and proposed windfarms in the SSA, and any impact on the AONB and AOB.

In relation to other matters raised with relevance to landscape and visual impact:

- a) Whilst respecting points raised over grid connection issues by individuals and the IEMA, the planning authority can not reasonably withhold permission on grounds that there are no details of the proposed electricity grid connection. This matter has been raised in relation to other applications which have gone to appeal, where Inspectors have attached little or no weight to the absence of such details, and have referred to separate legislative procedures under the Electricity Acts for handling overhead line proposals.
- b) The planning authority could not reasonably delay consideration of the application in order to await receipt of 'future' applications within the SSA, solely to allow further consideration of cumulative landscape/visual impact. Such action would open the authority to non-determination appeals and cost claims for unreasonable behaviour, as there is no certainty over the timing of future applications, and there is a reasonable expectation in the context of the landscape/visual assessment in the submission, the contents of TAN 8 and the IPG/refinement process that the Authority is able to make a judgement on the cumulative impact issues.
- c) Comments over the potential incongruity of turbines of different heights on windfarm sites in this area are noted, but it is not considered this constitutes a reasonable ground for refusal of permission. Factually, the height of turbines on each of the sites would be 75m (Tir Mostyn), 100m (Brenig), and 125m (Gorsedd Bran), but it is likely that a combination of factors would limit the landscape and visual impact of these differences. The Gorsedd Bran site is something of a 'outlier' in the North West corner of the SSA, and is physically divorced from Brenig (1km) and Tir Mostyn (2km), which would reduce the impact of turbine height differences between machines on this and the other sites. Whilst the Brenig site is located immediately to the West and the South of parts of Tir Mostyn windfarm, the actual

difference in turbine heights of 25 metres between machines on these sites is comparatively small, and it is respectfully suggested that having regard to the actual positioning of turbines, and the differences in levels between and across the sites, and the limited number of viewpoints from which turbines from both sites would be visible together and at full height, the landscape and visual impact would not be unacceptable. The Authority has also to recognise that turbine sizes have increased since the grant of the Tir Mostyn permission, with the current generation of machines being between 100 and 130 metres. In this context, it is not considered that the Authority has any case to require the use of smaller turbines on the Brenig or Gorsedd Bran sites or to oppose the height of turbines as proposed.

- d) Potential additional landscape/visual impact from safety lighting on turbines (for air traffic purposes) does not arise in this instance. TAN 8 Annex C (2.38) advises that lights are only required on structures that are over 150 metres high.

iii) **Amenity Impacts**

a) Noise

Basis of responses

Many individual responses, and those of the local community councils outline specific concerns over the potential noise implications of this windfarm development. These point to the already obtrusive impact of the existing Tir Mostyn windfarm, express fears that more, and larger turbines will lead to an increased incidence of noise and disturbance, and refer to the possibility of cumulative noise impact of windfarms sited in close proximity to one another. Questions are raised over the methodology for the assessment of noise (ETSU-R-97), how acceptable noise controls can be set and monitored, and whether the issue of Infrasound and Low Frequency Noise has been properly assessed.

Planning policy and guidance/other material considerations

UDP policy MEW 8 is the 'general' policy relating to renewable energy and states such development will be supported in principle as far as is compatible with other plan policies; and that development will only be permitted where there is no unacceptable effect on the environmental quality of the locality. MEW 10 states wind farms will be permitted, provided proposals meet specific tests. Test iv) requires that the proposal does not lead to unacceptable noise levels to residential amenity in the surrounding area.

The IPG deals primarily with locational and policy issues in the Clocaenog Wind Farm Zone, and indicates turbines should be a minimum of 500 metres from a residential dwelling. Noise is listed as one of a range of key considerations on any application.

Guidance on noise in TAN 8 is contained in paras. 2.14-2.18. This refers to the recommendations in ETSU-R-97 "The Assessment and Rating of Noise from Wind Farms" as relevant guidance on good practice for measurement of windfarm noise and "gives indicative noise levels calculated to offer a reasonable degree of protection to windfarm neighbours". In granting the recent Wern Ddu permissions, the Planning Inspector framed the relevant noise conditions on the methodology and assessment in ETSU-R-97, and this remains the 'standard' referred to by Inspectors in appeals nationally in relation to assessment of noise impacts of windfarm development. However, it is to be noted that some ETSU conditions are currently being tested by Judicial Review in England, and many developers and Councils are agreeing alternative and more robust conditions of the form proposed here by the Council's consultant, following critical consideration of matters such as cumulative impact.

Planning Guidance Wales: Planning Policy and TAN 11, Noise have limited up to date relevance to the detailed assessment of noise from windfarms. On the separate issue of low frequency noise, TAN 8 states there is no evidence that ground transmitted low frequency noise from wind turbines is at a sufficient level to be harmful to human health (2.17). It refers to a separate ETSU study on vibration from a modern windfarm, where vibration levels 100 metres from the nearest turbine were a factor of 10 or less than those recommended for human exposure in critical buildings, and tones above 3.0Hz were found to attenuate rapidly with distance, higher frequencies at a progressively increasing rate (2.18).

Relevant contents of application

The Environmental Statement contains a detailed noise impact assessment carried out by Ion Acoustics, based in Bath. The assessment contains a baseline noise survey at 5 properties in the locality, (agreed with the Public Protection section) to determine existing background noise levels, and a study of the combined noise level from the Tir Mostyn windfarm and the proposed development. The survey and noise limits apply the ETSU guidance in line with TAN 8. As ETSU does not stipulate a prediction method for determining wind turbine noise, ISO 9613 is used for this assessment. The conclusions are that for all properties monitored, turbine noise will be audible under downwind conditions at low wind speeds, but this is generally at low levels, and the combined noise level of Tir Mostyn and the Brenig site can meet the ETSU lower daytime and night time limits, except at two properties (Garreg Llwyd and Ty Newydd). As both properties benefit financially from the proposed development, under the ESTU procedure, a higher noise limit can be applied, and predictions are that these limits can be met. The Environmental Statement looks separately at construction noise, and concludes that given existing low noise levels, construction activities may be occasionally audible dependent on activity, location and wind direction, but that noise levels will be below relevant limits at the nearest position to houses, and there is a 'negligible impact'.

Summary

As detailed earlier in the report, the County Council has followed the same procedure to that adopted in relation to other windfarm applications received since 1999, in commissioning an independent acoustics consultant to undertake an appraisal of the submitted noise assessment.

The Council's Consultant has engaged in detailed dialogue with the developer's consultants and Public Protection Officers, to investigate key issues, including how the matter of cumulative noise impact should be addressed. The conclusions of the Consultant are outlined in detail at the end of the 'Consultation Responses' section of the report. Ultimately, it is suggested that enforceable planning conditions can be imposed to take account of cumulative noise, with suitable arrangements for future monitoring. The conditions are considered to be consistent with advice in ETSU-R-97, but as drafted are more robust alternatives, to cover cumulative noise impact. Consequently, and with respect to concerns expressed, it is not considered there is any 'technical' basis for opposing the development on noise grounds.

In relation to the question of low frequency noise, the Council's consultant concurs with the contents of TAN 8 in that there is insufficient evidence to conclude that the levels of such noise are harmful to human health.

b) Visual Amenity

Basis of responses

There are no representations expressing objection over the direct residential amenity effects of wind turbines on individual properties. Visual amenity impacts are normally taken to be the visual effects of turbines sited close to individual properties, on the day to day enjoyment by residents of the environment in and around their dwellings, and in the course of using roads and footpaths. Such impacts arise from the potentially intrusive physical presence of the turbines, including disturbance from the movement of blades on the quality of the experience.

Planning policy and guidance/other material considerations

UDP Policy GEN 6 test (v) requires that proposals do not unacceptably affect the amenity of local residents.

Relevant contents of the application

The Environmental Statement contains detailed assessment of the effects of the proposals on residential amenity. It accepts that occupiers of individual properties in close proximity to turbines may experience visual effects of varying significance, dependent on the actual distance and relationship to the turbines, and intervening landform. It provides information on the respective distances to turbines from individual properties and concludes on the potential dominance from turbines, particularly at distances under 2km, which is often referred to in studies and inspector's decisions as a distance below which a windfarm may be seen as a dominant focus. The nearest occupied dwelling to a turbine is Ty Newydd, at 0.8km, which is anticipated to have potentially significant views of additional turbines, but in one direction only. The conclusion is that no properties are assessed as having their visual amenity significantly affected by the development.

Summary

The majority of residential properties closest to the Brenig site are located to the north and north east. Ty Newydd at 800 metres, Pennant Uchaf and Hafod Caradoc at 1.1km are the closest. At these distances, it is considered unlikely that the impact on residential amenity would be so significant that refusal of permission could be justified. Whilst caution is necessary in comparing situations, it is of relevance that the Wern Ddu appeal inspector concluded the impact of 2 turbines within 500 metres of a private dwelling would not be unacceptably overbearing or intrusive.

c) Shadow Flicker

Basis of responses

There are no representations raising the matter of shadow flicker as a specific concern in relation to the application.

Planning policy and guidance/other material considerations

UDP policy MEW 10 (v) requires that there is no unacceptable risk or nuisance to the public arising from wind turbines, such as shadow flicker. TAN 8 explains the phenomenon of shadow flicker in Annex C, 2.32, outlining that it can occur where the sun passes behind the rotors of a turbine and casts a shadow over neighbouring property, which flicks on and off as the blades rotate. TAN 8 obliges developers to provide an analysis of the potential for shadow flicker impacting on nearby property.

Relevant contents of the application

The Environmental Statement contains an explanation of the circumstances in which shadow flicker may occur, and explains the conclusions of research that the actual flicker effect should not be perceived at distances in excess of 10 rotor diameters. In the case of the Brenig development, the proposed rotor diameter of 80 metres would extrapolate to a maximum distance of 800 metres from the nearest turbine for the possible incidence of shadow flicker. The nearest property, Ty Newydd lies at 800 metres from Turbine No. 5. The submission concludes that shadow flicker is thought to be of low significance for the proposed development.

Summary

On the basis of the information available, the potential incidence of shadow flicker appears to be limited in this case. It would nonetheless be appropriate to take a precautionary stance in respect of Ty Newydd, and to suggest, if a permission were to be granted, the inclusion of a suitably worded condition to oblige suitable investigation and action should the phenomenon occur at this property.

d) Electromagnetic Interference

Basis of responses

A small number of individuals express concerns over the potential for electromagnetic interference from the turbines. This would be from physical interference (the scattering of signals resulting in 'ghosting' on TV screens) or electrical interference (signals generated within turbines, impacting on telecommunications equipment). A range of consultees have forwarded specific comment on the potential impacts on their networks/systems.

Planning policy and guidance/other material considerations

UDP policy MEW 10 (v) requires that there is no unacceptable risk or nuisance to the public from wind turbines, including radio interference.

Relevant contents of the application

The Environmental Statement refers to consultations undertaken prior to submission with telecommunication and broadcasting network operators, and concludes from responses that there would be insignificant effects on telecommunication links. It notes some degradation from Tir Mostyn to signal strength from a National Grid Wireless Remote Broadcast Link (RBL) to a TV relay station at Cerrigydrudion, but suggests the proposed development is unlikely to impact on this link. It refers to the programmed switch in Wales to Digital TV in 2009 and that research indicates digital links are unaffected by wind turbines. In the event that there is a delay in the Digital TV

switchover, the applicants accept they would need to commit to a scheme with National Grid Wireless to maintain acceptable signal strength.

Summary

On the basis of consultation responses, there are no anticipated adverse impacts on telecommunication networks and systems. It is however common practice in relation to turbine applications to address any possibility for interference with TV, radio or other systems by including conditions obliging surveys of existing reception and the submission and implementation of specific schemes for mitigation of impact, should problems arise.

e) Health and Safety

Basis of responses

A range of concerns are expressed over potential health and safety implications of turbine development. These include the possibility of interference to air navigation systems, dangers to low flying aircraft, and potential dangers to users of footpaths and highways from blade failure, ice throw, lightning strikes, and structural failure of turbines and blades.

Planning policy and guidance/other material considerations

UDP policy MEW 10 (v) and GEN 6 (v) are relevant to the issue of health and safety impacts, requiring that no unacceptable risk or nuisance arises to the public from developments. TAN 8 Annex C outlines the need to protect aviation interests and to consult the relevant air traffic bodies, and in relation to safety issues, comments in 2.19 that properly designed, erected and maintained turbines are a safe technology, and that minimum distances from occupied buildings should be calculated to ensure safety requirements.

Relevant contents of the application

Issues relating to air safeguarding are referred to in the Environmental Statement, which notes pre-application dialogue with the relevant airspace bodies.

Summary

It is apparent from consultation responses that there are no air safeguarding objections to the proposals. Safety devices are built into modern turbines to deal with ice build up and lightening strikes, by way of vibration sensors to detect imbalances caused by icing on blades (where operation would be automatically inhibited), and lightening receptors on blades which discharge electricity to the rotor hub, the shaft, the main frame, and to earth by way of carbon brushes.

With respect to concerns over the structural stability and safety of turbine towers and blades, there is no requirement on applicants or the County Council to undertake specific risk assessments to inform the decision making process. It is understood that modern turbines are subject to a Certification procedure in accordance with European standards, and have to be installed, operated, and maintained in strict accordance with manufacturers' recommendations. As is the case with any item of machinery, a possibility of failure or breakdown will always exist, but the consequent risk (if any) to a member of the public will be relative to the actual presence of the public in the vicinity of a turbine. Consequently, the inherent risk is considered to be low, as it is unlikely that members of the public would be present in the upland areas where windfarms are located, in the extremes of weather that are prone to bring about failure of major turbine components. To officers' knowledge there are no recorded instances of injury to members of the public from operational windfarms in the United Kingdom.

iv) Nature Conservation

Basis of responses

A number of individual objectors outline concerns over the loss of trees, disturbance to peat beds and the adequacy of survey information on impacts on wildlife habitat, specifically populations of bat, and other species like red squirrel.

Planning policy and guidance/other material considerations

The requirement to ensure there is no unacceptable impact on wildlife/nature conservation is outlined in policies STRAT 7, GEN 6, ENV 1, ENV 6 and MEW 10(x) of the Unitary Development Plan. TAN 5 obliges due consideration of biodiversity issues. TAN 8 Annex C refers to TAN 5 and

identifies the need for proper consultation with CCW and RSPB to establish potential impact, in particular on the migration paths of birds and bats from moving blades.

Relevant contents of the application

The Environmental Statement details survey work undertaken to establish the presence and potential impact on breeding birds and other mammals, and habitat and vegetation surveys. The conclusions are that there is only a sparse bird population, but a bat presence; and small areas of remnant heath and mire habitats. Specific mitigation measures are proposed to maintain bat flightline corridors and would include a habitat management plan.

Summary

The CCW and RSPB have responded in detail to the proposals and have been in dialogue with the applicants advisors in relation to specific issues such as impacts on the semi natural vegetation of the nearby SSSI, and proposals for habitat management. The conclusion of this exchange has enabled CCW to withdraw their original holding objections, subject to the inclusion of condition/a suitable legal agreement to cover specific requirements for mitigation on and off site. RSPB take a similar view. The particular issues of concern to CCW and RSPB can be addressed by planning condition and a Section 106 agreement.

v) **Archaeology**

Basis of responses

There are a small number of representations expressing concern over the potential for damage to archaeological interests, and the nearby archaeological trail.

Planning policy and guidance/other material considerations

UDP policy MEW 10 (ii) seeks to ensure there is no unacceptable harm to areas or features of archaeological importance. TAN 8 Annex C refers to advice in Welsh Office Circular 60/96 Archaeology and Planning, and requires that care is taken to ensure relevant procedural steps are followed in the preparation, consideration of applications and during/after construction.

Relevant contents of the application

The Environmental Statement outlines the contents and conclusions of an archaeological impact assessment of the site. This identified 16 sites and monuments of cultural heritage interest, of regional, local, and minor scales of importance, but no scheduled ancient monuments within the site boundary. Of these, it is stated two would face 'direct impacts' as a result of the development, but these would be addressed by mitigation measures, and a watching brief during site works.

Summary

There are no objections to the proposals from the two key consultees, the County Archaeologist, and the Clwyd Powys Archaeological Trust. Both require any consent to include the mitigation measures outlined in the Environmental Statement.

vi) **Hydrology/Hydrogeology/Geology**

Basis of responses

There are general comments made in representations over the potential impact on water resources, including concerns over development affecting the quality of private water supplies, and the loss of trees resulting in additional surface water run off and contributing to the increased risk of flooding elsewhere (the latter raised by Environment Agency Wales and the IEMA).

Planning policy and guidance/other material considerations

The relevant Unitary Development Plan policies are GEN 6 (x) and MEW (ix) which require that proposals do not have an unacceptable effect on amenity, groundwaters or private water supplies.

Relevant contents of the application

The Environmental Statement contains a detailed appraisal of potential impacts. In relation to:-

- a) Hydrology – it acknowledges the main impact will be from increased sediment loading due to excavation work, and potentially greater surface water run off from surfaces with lower permeability (i.e. areas to be cleared of trees). Mitigation measures are proposed to protect

watercourses, and the nearby reservoirs.

- b) Hydrogeology – no major impacts are anticipated as the underlying rock strata will not contain large volumes of water, and the effect of dewatering excavated areas will be short term and localised.
- c) Geology – no impact or risk is anticipated to the underlying solid rock geology, or to the overlying drift geology.

Summary

The main technical consultees in respect of water/drainage issues are the Environment Agency Wales, and the Council's Scientific Services Officer. During the course of the application, the Environment Agency have requested further information including evaluation of the potential for additional surface water run off following tree clearance, and any flooding implications. The Agency have subsequently confirmed they have no objections to the proposals as submitted, subject to the imposition of a range of conditions to mitigate impacts, including details of such measures proposed at construction stage. There are no objections from the Scientific Services Officer in relation to water supply issues, but it would be necessary to include controls to ensure development does not affect the quality of supply to properties served by local streams.

vii) **Impact on Local Economy**

Basis of responses

Impact on the local economy is mentioned by a number of objectors as a concern. This is primarily in respect of the effect which individuals believe turbine development would have on the attractiveness of the area for tourists, in particular around Llyn Brenig and surrounding countryside. A number of letters comment that the development would have limited local employment benefits beyond the landowners and developers. Letters in support take a contrary view, in suggesting there will be financial benefit for local farmers and the local economy.

Planning policy and guidance/other material considerations

There is limited direct policy guidance on this issue. Policy MEW 10 (viii) of the Unitary Development Plan requires that proposals do not cause unacceptable harm to the enjoyment of the landscape for recreational and tourism purposes. There is general encouragement in other policies of the UDP for proposals which contribute to, and diversify the rural economy, subject to normal environmental safeguards.

Relevant contents of the application

In commenting on the socio-economic effects of the proposed development, the Environmental Statement concludes that construction of the windfarm will not result in any fundamental or long term changes in population, the structure of the local economy, local services or employment. It notes that there would be opportunities and benefits for local businesses during the constructional, operational, and decommissioning phases, and there are separate benefits from the Community Fund package benefits to landowners, and more indirect contributions to the local and national economy through payment of business rates. In relation to the impact on tourism, the Statement accepts this is an important industry in Denbighshire, and that there would be significant visual effects for Llyn Brenig and its leisure facilities. It refers to the basis of research in public opinion surveys and the findings of Welsh Tourist Board research that there is no clear evidence that turbine development would affect the likelihood of visitors returning to an area; concluding ultimately "the proposed development is unlikely to have a negative effect on tourism in the Denbighshire region. Neither is it considered the proposal will have a significant positive effect".

Summary

In viewing the range of issues relevant to impact on the local economy, it is difficult to conclude there is evidence to suggest the potential benefits or disbenefits clearly outweigh one another. There is a direct benefit to affected landowners, and potential benefits from the award of construction contracts to local companies, but no way of guaranteeing the latter would occur. Impacts on tourism are impossible to determine with certainty, as public opinion surveys suggest varying reaction to the presence of turbines. The County Council itself would not benefit directly from the payment of business rates. The developer's offer to set up a Community Fund package, involving payment of a specified amount of money per megawatt generated per annum, into a fund administered by a Trust comprising representatives of agreed local Community Councils and

relevant interested groups/parties, should not be accorded any weight in the determination of the application as this form of 'gain' is not necessary for the development to proceed. The applicants agents have suggested the mechanism for delivery of a Community Fund Package could be via a Section 106 agreement, if a permission was to be granted.

viii) **Highways Impact**

Basis of responses

There are concerns expressed over potential damage to highways at construction stage, having regard to the experience of the Tir Mostyn development. There is also comment on the status of and impact on Public Footpath No. 67, which crosses the site.

Planning policy and guidance/other material considerations

Policies GEN 6 (viii) and MEW 10 (vi) of the Unitary Development Plan require that proposals should not have an unacceptable effect on the local highway network, or give rise to dangers to road users.

Relevant contents of the application

The Environmental Statement contains a detailed traffic assessment, including surveys of existing vehicle movements and predicted movements at construction stage. It outlines the anticipated nature and frequency of traffic movement, a safety assessment, and specific mitigation measures to reduce impacts on users of the highways and residents in the vicinity (noise, dust, air pollution measures). The conclusion is that with the mitigation measures, the overall transport impact during construction and operation is assessed to be of low significance.

Summary

No objections are raised by the Head of Transportation and Infrastructure to the highway impact of the proposals. A degree of inconvenience is likely at construction stage, but this is for a limited period only, and the highway network appears adequate to cope with the type and volume of traffic involved. Normal planning conditions can be imposed to control movement and timing of construction works, and there would be a need for separate conditions obliging the recording of the highway condition prior to the commencement of works in conjunction with an obligation to reinstate and make good any damage to any public highway arising from heavy construction traffic.

Public Footpath No. 67 runs East-West through the site from the Tir Mostyn windfarm, and joins the minor road serving the archaeological trail parking area on the North East corner of Llyn Brenig. The path is impassable through part of the Brenig site as a result of tree growth and the presence of a bog area following flooding after peat extraction in the past. It was the subject of a formal application to the Highways section by the British Horse Society for upgrading to a bridleway at the time of the consideration of the Tir Mostyn windfarm application. This type of application is dealt with by the County Council under different legislation in the Wildlife and Countryside Act. The application remains on the record, and advice has been sought from the Legal Officer on its relevance to the current application. The basis of this advice is that:

- as there remains on file an application to upgrade the footpath, the authority has to take into account the impact of the planning application on the bridleway.
- until such time as the bridleway application is determined, it is of limited weight as a consideration on a planning application.

In conclusion, it is officers' opinion that the bridleway application should not be accorded significant weight in relation to the windfarm application. The route of the bridleway claimed is already compromised by the Tir Mostyn windfarm development, which has turbines within 50 metres of the path. The path runs through a bog, which would be dangerous, and unusable by horses. The proposed turbines are in excess of 140 metres from the path. The British Horse Society has not responded to consultation on the planning application. The Footpaths Officer considers it preferable to negotiate a more advantageous route for a bridleway with landowners in this area, through a separate diversion order process. Insofar as this relates to the Brenig planning application, it is respectfully suggested that it would be reasonable to attach a suitably worded condition requiring approval of details for the reinstatement of the footpath, and a note to the applicants to discuss the bridleway issue with the Footpaths Officer and British Horse Society to seek an alternative, and more commodious route.

Other issues

The application has raised a number of issues which do not 'fit' conveniently under the main topic headings adopted in the report. These include:

Impact on property value

There are several individual letters outlining objections over the potential impact of more wind turbine development on property values.

As a general principle, fears over loss of property value should themselves be accorded little or no weight in the determination of planning applications, as the basic premise is that the system does not exist to protect the private interests of one person against the activities of another – and that proposals should be considered in terms of their effect on the amenity and existing use of land and buildings in the “public interest”. The land use planning considerations should therefore centre on the acceptability of a development on the level of amenity enjoyed by residents, rather than matters like financial gain or loss.

Community Benefits

Concerns are expressed over the developer's offer to set up a Community Fund in connection with the scheme, and whether this is an appropriate consideration in relation to an application.

There is a clear guidance on 'developer offers' in TAN 8 Annex B. Where development is likely to have a direct implication for the public provision of infrastructure (e.g. off site highway improvements, then there is a straightforward requirement for a developer to enter into a legal obligation under Section 106 of the Planning Act to secure agreement to the mechanism for the relevant financial contribution. Other 'gains' offered by developers, which are not necessary for a development to proceed, are not in themselves unlawful, but TAN 8 makes it clear that they must not impact on the decision making process. Consequently, the offer to set up a Community Fund in this instance should play no part in the consideration of the application.

Financial benefits to Denbighshire County Council

Objectors question whether it is appropriate that the County Council is responsible for determining an application where it may be in receipt of an obvious financial 'benefit' from a development, such as business rates income.

Whilst appreciating the point here, the Revenues Section of the County Council have advised that Denbighshire do not receive rating income directly from developments such as windfarms, as these are included in a Central Rating List compiled and maintained by the central valuation officer, which is deposited and administered by the appropriate Secretary of State.

Loss of CO² absorption through tree removal

A number of objectors question the principle of consenting to development which involves the removal of trees which act as a natural absorbent of CO² gas.

There is no dispute that areas of forestry plantation provide a level of carbon storage, as trees absorb carbon dioxide as they grow. The loss of trees on the site will impact on the specific 'carbon fixing' potential here, but this does need to be balanced against the anticipated CO² saving from electricity generated from turbines on the site (i.e. offsetting electricity produced by current electricity generating plant in the UK, which mainly comprises fossil fuel generation from coal and gas). The Environmental Statement estimates the CO² saving from the turbines would be 90,000 tonnes a year (2.26 million tonnes over a 25 year period), a figure which would be reduced to 88,000 tonnes a year (2.2 million over the 25 year period), taking account of the loss of carbon fixing potential from the trees. This represents a significant overall 'gain' to be set against the loss of trees. It is also relevant to note that the trees here have been planted as a 'commercial' crop, and would have been removed in the near future in any event.

Fear of precedent

It is respectfully suggested that the possibility of the grant of permission setting a precedent for the submission of further wind turbine applications, and pressuring the Authority to approve them, is not in itself a defensible ground for refusing permission. The basic principle is that each application has to be assessed on its own particular merits against planning policies and other material

considerations, and it is these matters which should determine whether to grant or refuse.

Impact on existing turbines at Tir Mostyn

A specific objection is lodged over potential problems which could arise from the physical location of turbines on the Brenig site, in terms of disturbance to windflow to other turbines, reducing the efficiency/potential generation of electricity. The issue is the occurrence of 'windflow wake', which could affect turbines at Tir Mostyn or Brenig, dependent on wind direction and speed.

The view is taken here that there would inevitably be an impact on wind resource between a turbine development at Brenig and Tir Mostyn, each affecting the other dependent on wind direction, but the significance should be of limited bearing to the determination of the application. The applicants have indicated that having undertaken an analysis of the Tir Mostyn layout, and the close proximity to turbines to the forestry edge, the effect of removing the forestry early and for the life of the project and then installing Brenig turbines further away will have a net benefit to Tir Mostyn in terms of available quality and quantity of wind resource. The overall picture is that the development will increase the contribution of energy generated from a renewable source, and any impact on an adjacent site would be limited in this context.

ix) Decommissioning

The application does not contain specific details of 'decommissioning' of the development, i.e. arrangements for how the turbines are to be removed and the land reinstated at the end of the life of the windfarm. If a permission were to be granted, it would therefore be essential to ensure the submission and approval of relevant details, and to set an appropriate timescale for completion of reinstatement works. This matter was dealt with by way of a planning condition by the Wern Ddu Inspector, and is the preferred route outlined in the 'Onshore Wind Energy Planning Conditions Guidance Note', commissioned by the Renewables Energy Board, and endorsed in 2007 by the Minister of State for Energy as an aid to local planning authorities.

In officers opinion the use of a planning condition is a satisfactory and enforceable option to secure decommissioning, and there is no requirement to pursue a bond through a separate Section 106 agreement to achieve the same result.

SUMMARY AND CONCLUSIONS:

21. The determination of major applications of this nature obliges a careful balancing exercise, within the context set by legislation, which requires the County Council to make decisions in accordance with the development plan, unless material considerations indicate otherwise.
22. The report sets out in some detail a range of land use planning issues which are relevant to the weighing of the merits of the application. Evaluation of the issues suggests there are conflicts with elements of development plan policy, and that the final decision rests on whether any harm identified is sufficiently compelling, when set against other material considerations, to justify refusal of permission.
23. In assessing the weight to be given to factors which presume against the grant of permission, due account has to be given to the possibility of addressing conflicts with policy or potential harm, by way of suitable planning conditions or legal agreements. Hence whilst acknowledging the basis of concerns over aspects of the development, experience from previous applications and appeals suggests specific impacts such as those relating to noise, shadow flicker, electromagnetic interference, nature conservation, archaeology, hydrology and highways, can be mitigated satisfactorily through appropriate controls as part of any permission. Consultee responses on the Brenig application indicate that suitable controls can be included to address concerns arising in relation to these issues.
24. Looking first at the Brenig proposal in the context of the development plan, the main policies are MEW 8 and MEW 10, which deal respectively with renewable energy and windfarm development. Other policies are relevant to specific elements of the proposals. MEW 8 and MEW 10 provide a general presumption in favour of wind turbine developments, unless the impacts conflict with a number of criteria 'tests', and involve unacceptable harm. The report suggests there will be conflict with policy in terms of the significant visual and landscape effects, including cumulative impact with existing and potential future windfarms in the SSA. There are potential conflicts with a number of other policy tests, but realistic controls and mitigation measures are possible to address these.
25. The other material considerations of relevance to the determination are policy and guidance from national and Welsh Assembly Government, and the Denbighshire – Conwy Interim Planning Guidance on Onshore wind farms. WAG's Technical Advice Note 8 (2005) and MIPPS 01/2005 are highly

significant, up to date policy and guidance, introducing the concept of concentrating large scale windfarm developments to identified Strategic Search Areas. The TAN and MIPPS effectively 'designate' the Clocaenog Forest area as suitable for windfarm developments and set specific targets for the generation of electricity from renewables. This locational approach to windfarm developments has been supported by the County Council in approving its Interim Planning Guidance in February 2007. The Brenig site is within the Strategic Search Area identified in TAN 8, and the 'refined' boundary (the Clocaenog Wind Farm Zone) in the IPG. Whilst the weight to be attached to the IPG has been questioned by the appeal Inspector at the recent Wern Ddu inquiry, this is nonetheless a material consideration on the application, which supports the principle of locating large scale windfarms in this location.

26. Ultimately, the view is taken that conflict with Unitary Development Plan landscape protection policies is inevitably outweighed by current policy and guidance in TAN 8 and the 2005 MIPPS, which attach a high premium to the generation of electricity from renewables. The harm which would arise to the local landscape has now to be set against the context of the change brought about already by the existing Tir Mostyn windfarm, and with the clear acceptance in TAN 8, MIPPS and the IPG of significant landscape change within and around Strategic Search Areas through the creation of 'windfarm landscapes'.
27. In conclusion, therefore, having due regard to the range of issues relevant to the determination of the application, it is respectfully suggested that a number of potential conflicts with planning policies can be addressed through suitable mitigation, and that the harm to the local landscape is outweighed by the strong material considerations in TAN 8 and MIPPS. The officer recommendation is consequently for the grant of permission, subject to appropriate conditions and a legal agreement.

The recommendation below is subject to the completion of a Section 106 agreement or such alternative legal agreement acceptable to the Council's Legal Officer, to secure:

- The submission and implementation of a detailed Habitat Management Plan, including a mechanism to establish a Steering Group/Committee to monitor and review the plan.
- The creation of a buffer zone next to the SSSI where no improvement of the land shall be permitted.
- A contribution to the provision and installation of an historic interpretation/exhibition facility at the Brenig Centre.

In addition, and in relation to those matters considered outside the planning process:

- The establishment of a Community Fund based on agreed developer contributions, and a mechanism for holding the Fund in Trust, and managing and distributing the Fund, to include for:
 - The establishment of an Environmental Community Benefit Fund for habitat management and enhancement at Gors Maen Llwyd and other locations within the Blanket Bog Restoration Environmental Community Benefit Zone, in accordance with a Land Management Plan and the Statement of Environmental Masterplanning Principles, to include the creation of a Steering Group to monitor and review the Management Plan and the administration of the Fund; and the basis of contributions.
 - Contribution to a fund for the conservation of red squirrels, and the mechanism for managing and distributing the Fund.

The planning permission would not be released until the completion of the agreement; and on failure to complete the agreement within 12 months of the date of this Committee, the application would be reported back to the Committee for determination against the policies and guidance relevant at that time.

The contents of the Environmental Impact Assessment has been taken into account in preparing this report and recommendation.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. The development hereby permitted shall begin before the expiration of 5 years from the date of this permission.
2. The planning permission shall be for a period of 25 years from the date of the first generation of electricity to the grid from the development. Written confirmation of the date of the first generation of electricity to the grid from the development shall be provided to the Planning Authority no later than 1 calendar month after the event.
3. The location of the turbines and ancillary structures such as anemometer masts, and the access tracks, shall be in the positions indicated on the submitted plans, subject to variation of the indicated position of any turbine or any track on the plans by up to 20 metres, or where the written approval of the Local Planning Authority has been given to a variation arising from details approved in relation to other conditions of this permission. Any variation greater than 20 metres shall require the written approval of the Local Planning Authority.
4. No work shall be permitted to commence on the switchgear and metering building until the written approval of the local planning authority has been obtained to its precise location, the external wall and roof materials.
5. This permission relates solely to the erection of 3 bladed wind turbines as described in the application plans and drawings with a maximum height to blade tip of 100m from original ground level.
6. All the blades shall rotate in the same direction.
7. The finish of all the turbines shall be semi-matt and their colour shall be approved in writing by the Local Planning Authority before the turbines are erected on site.
8. No part of the development shall display any name, logo, sign, advertisement or means of illumination without the prior written approval of the Local Planning Authority.
9. All electricity and control cables between the turbines and the switch room shall be laid underground and alongside tracks which are constructed on the site as part of the development unless otherwise agreed in writing with the Local Planning Authority.

CONSTRUCTION METHOD STATEMENT

10. No work of construction, laying out of access tracks, or work on the construction compound shall be commenced until a Construction Method Statement has been submitted in writing to and approved by the Local Planning Authority. The scheme shall include provisions relating to:
Construction and reinstatement of the temporary site compound
Construction and reinstatement of all internal tracks including measures to reinstate planting on approach tracks
Soil stripping management
Surface and foul water drainage
Pollution Prevention and Control plan, in particular to demonstrate steps to prevent impacts on streams which provide private water supplies, and proposals for mitigating and remedying any degradation in the quality of water supplies.
Traffic Management including HGV routes
Traffic signing along public roads
Recording the existing state of the site
Development shall be carried out in compliance with the approved Construction Method Statement, unless otherwise approved in writing by the Local Planning Authority.
11. No works on the construction of the turbine bases or delivery of wind turbine components or wind turbine erection plant shall be permitted to commence until there have been submitted to and approved in writing by the Local Planning Authority:
 - o a scheme for the recording of existing road conditions by the developer,
 - o arrangements for the repair and reinstatement of public highways.
12. Construction work on the site shall be confined to the hours of 0700-1900 Mondays to Fridays and 0700-1300 hours on Saturdays with no working in Sundays or national public holidays unless otherwise agreed in writing with the Local Planning Authority.

13. All new tracks shall be surfaced with stone from the approved borrow pit(s) or excavations for the turbine bases, unless otherwise agreed in writing by the Local Planning Authority.

14. The permanent running widths of internal access tracks shall be no greater than 5m wide (10m on bends) unless agreed in writing by the Local Planning Authority.

SURFACE WATER DRAINAGE

15. No works of construction, laying out of access tracks, or work on the construction compound shall be commenced until a scheme for the disposal of foul and surface waters has been approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

16. Nothing other than uncontaminated excavated natural materials shall be tipped on the site.

17. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

18. None of the trees within the application site shall be felled until the written approval of the Local Planning Authority has been obtained to the timing and methodology of the clearance operations, and to specific details of the means of addressing/attenuating surface water run off from the tree clearance, related construction operations, together with associated mitigation and monitoring arrangements, including steps to remedy any degradation in the quality of water supplies to private properties in the locality.

19. No works of construction, laying out of access tracks, works on the construction compound, or tree felling shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to a preliminary site assessment, which shall include the following:

"Identification of all water features both surface and groundwater (ponds, springs, ditches, culverts etc.) within a 300 metres radius of the site boundary.

"Use made of any of these water features. This should include the construction details (e.g. depth) of wells and boreholes and details of the lithology into which they are installed;

"An indication of the flow regime in the spring or surface water feature, for example whether or not the water feature flows throughout the year or dries up during summer months;

"Accessibility to the spring/well;

"This information should be identified on a suitably scaled map (i.e. 1:10,000), tabulated and submitted to the Environment Agency. The developer should photograph each of the identified water features during the survey.

Based on the results of the survey the applicant must assess the likely impacts from the development on both quantity and quality of the surface water and groundwater. This should take into consideration both the preferred methods of construction and the assumed hydrogeology in the vicinity of the development.

DECOMMISSIONING

20. Not later than 12 months before the expiry of the 25 year operational period of this permission, a scheme for the restoration of the site, including the dismantling and removal of all elements above ground level, and the removal of turbine bases to a depth of 1.0m, shall be submitted for the consideration of the Local Planning Authority. The scheme approved in writing by the Local Planning Authority shall be carried out and completed within 12 months from the date that the planning permission hereby granted expires.

21. If any wind turbine generator(s) hereby permitted ceases to operate for a continuous period of 6 months then, unless otherwise agreed by the Local Planning Authority, a scheme for the decommissioning and removal of the wind turbine generator(s) and any other ancillary equipment and structures relating solely to that generator(s), shall be submitted to and agreed in writing by the Planning Authority within 6 months of the end of the cessation period. The scheme shall include details for the restoration of the site. The scheme shall be implemented within 6 months of the date of its agreement by the Local Planning Authority.

HIGHWAYS

22. No works of construction, laying out of access tracks, work on the construction compound or tree felling shall be permitted to commence until the written approval of the local planning authority has been obtained to the restoration/treatment of Public Footpath No. 67 during and after the construction phase of the development, including the timing of works on the footpath.
23. Full details of the proposed site access shall be submitted to and approved in writing by the Local Planning Authority before any work commences on site.
24. Facilities shall be provided and retained within the site for the loading, unloading, parking and turning of construction vehicles in accordance with a scheme to be agreed with the Local Planning Authority, and which shall be completed before work on the turbines is commenced. These facilities shall be retained for the whole duration of the construction period.
25. Facilities shall be provided and retained within the site for loading, unloading, parking and turning of service vehicles in accordance with a scheme to be agreed with the Local Planning Authority, and which shall be completed prior to the commissioning of the wind farm.

BORROW PITS

26. No development shall commence on any of the access tracks or turbines until full details of the location, maximum extent and depth, profiles, means of working including rock crushing and restoration of the borrow pits have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented as approved.

ARCHAEOLOGY

27. No works of construction, laying out of access tracks, work on the construction compound or tree felling shall take place until the applicant has secured the implementation of a programme of archaeological mitigation in accordance with section 11.7 of the Environmental Statement and such other mitigation as has been submitted by the applicant and approved in writing by the Local Planning Authority, to include for a watching brief and an appropriate buffer zone marking of identified archaeological sites.
28. Where development approaches to within 50 metres of any archaeological site, that site shall be protected and marked by a robust temporary barrier and the barrier should remain in place for the duration of the construction phase so that no accidental damage occurs. The placement of the barriers should not directly impact upon any unscheduled site or scheduled ancient monument areas and must be placed outside any scheduled monument boundary.

AIR SAFEGUARDING

29. The developer shall provide written confirmation of the following details to the Ministry of Defence and the Civil Aviation Authority within 3 months of the date of this permission and the commencement of development shall not occur until this confirmation has been given:
- i) Proposed date of commencement of the development
 - ii) The maximum extension height of any construction equipment.
30. Within 14 days of the commissioning of the final turbine, the Company shall provide written confirmation of the following details to the Ministry of Defence and the Civil Aviation Authority:
- i) Date of completion of construction
 - ii) The height above ground level of the highest potential obstacle (anemometry mast or wind turbine).
 - iii) The position of that structure in latitude and longitude.
 - iv) The lighting details of the site.

TELECOMMUNICATIONS INTERFERENCE

31. None of the turbines shall be erected until a baseline television reception study in the area has been undertaken by a qualified television engineer at the developer's expense, and has been submitted to the Local Planning Authority. Details of any works necessary to mitigate any adverse effects to domestic television signals in the area caused by the development shall also be submitted to and approved in writing by the Local Planning Authority. Any claim by any person for domestic television picture loss or interference at their household within 12 months of the final commissioning of the wind farm/turbine, shall be investigated by a qualified television engineer

at the developer's expense and the results submitted to the Local Planning Authority. Should any impairment to the television reception be determined by the qualified engineer as attributable to the wind farm/turbine on the basis of the baseline reception study, such impairment shall be mitigated within 6 months of this decision according to the mitigation scheme outlined, unless otherwise agreed by the Local Planning Authority.

SHADOW FLICKER

32. None of the turbines shall be erected until the written approval of the Local Planning Authority has been obtained to the details of a scheme to address the incidence of shadow flicker at Ty Newydd; such scheme to include details of photocells or other measures to control, re orientate, or shut down particular turbines. Unless agreed in writing by the Authority, any turbine producing shadow flicker effects at any dwelling shall be shut down, and the blades remain stationary until the conditions causing those effects have passed. The scheme shall be implemented as approved.

ECOLOGY

33. No works of construction, laying out of access tracks, or works on the construction compound shall commence until the written approval of the Local Planning Authority has been obtained to a scheme for habitat management and enhancement for the protection of the Mynydd Hiraethog SSSI, during and after the lifetime of the windfarm, to include for a mechanism to establish a Steering Group/Committee to review the plan, and details of how the agreed measures are to be implemented, including timing. All measures shall be implemented in accordance with the approved details.

NOISE

34. At the reasonable request of the Council, the operator of the development shall employ an independent consultant approved by the Council, at the operator's expense, to measure and assess the level of noise emissions from the wind turbine generators following the procedures described in the Guidance Notes attached to these conditions.

35. At the reasonable request of the Council the operator of the development shall employ an independent consultant approved by the Council, at the operator's expense, to measure and assess the tonal noise of the development in accordance with the procedure described in the Guidance Notes attached to these conditions.

36. The wind farm operator shall log wind speed and wind direction data at a grid reference to be approved by the Council as planning authority to enable compliance with conditions 34 and 35 to be monitored. This wind data shall include the wind speed in metres per second (ms-1) and the wind direction in degrees from north for each 10 minute period. At the reasonable request of the planning authority, the recorded data measured at 10m height above ground level and relating to any periods during which noise monitoring took place or any periods when there was a specific noise complaint shall be made available to them. Where wind speed is measured at a height other than 10m, the wind speed data shall be converted to 10m height, accounting for wind shear by a method whose details shall also be provided to the planning authority. At the reasonable request of the Council, the wind farm operator shall provide a list of ten-minute periods during which any one or more of a relevant set of turbines was not in normal operation. This information will only be required for periods during which noise monitoring in accordance with conditions 34 and 35 took place. The "relevant set" and "normal operation" are defined in the guidance notes.

37. The rating level of noise emissions from the combined effects of the wind turbine generators when measured and calculated in accordance with the guidance notes shall not exceed the levels set out in the tables following:

The figures in the body of the tables are noise levels from turbines measured in dB as an LA90 at each wind speed in accordance with the procedure set out in the guidance notes attached to this Certificate:

At Ty Newydd and Pennant Uchaf:

Wind Speed m/s	4	5	6	7	8	9	10 and above
Individual Standard dB	43	43	43	43	43	43	43

At all other properties:

Wind Speed m/s	4	5	6	7	8	9	10 and above
Individual Standard dB	35	35	35	35	38	40	42

The reason(s) for the condition(s) is(are):-

1. In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and in order that the Local Planning Authority retains control over the longer term uses of the land.
3. For the avoidance of doubt and to allow the Local Planning Authority to retain control over the development.
4. For the avoidance of doubt and in the interests of visual amenity.
5. For the avoidance of doubt and in the interest of visual amenity.
6. For the avoidance of doubt and in the interest of visual amenity.
7. For the avoidance of doubt and in the interest of visual amenity.
8. For the avoidance of doubt and in the interest of visual amenity.
9. In the interests of visual amenity.
10. To ensure proper controls over the matters referred to minimise the impact of the development.
11. In the interests of highway safety.
12. In the interests of amenity of occupiers of property in the locality.
13. To minimise the need for imported material and movement of HGV's on highways.
14. In the interests of visual amenity.
15. To prevent pollution of the water environment.
16. To prevent pollution of the water environment.
17. To prevent pollution of the water environment.
18. To ensure proper arrangements to limit surface water run off and to protect the quality of water supplies to private properties.
19. To protect controlled waters.
20. To ensure adequate arrangements are in place to reinstate the site.
21. To ensure adequate arrangements are in place to reinstate the site.
22. In the interests of safeguarding public rights of way.
23. In the interest of free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.
24. To provide for the loading, unloading and parking of construction vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
25. To provide for loading, unloading and parking of service vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
26. To ensure proper arrangements for the capture of material for access tracks, and subsequent reinstatement of the land.
27. To ensure adequate arrangements for the archaeological recording and observations.

28. To ensure the protection of archaeological interests.
29. In the interests of air safety.
30. In the interests of air safety.
31. To ensure full investigation of television reception and arrangements to address any interference as a result of the development.
32. In the interests of the amenities of occupiers of Ty Newydd.
33. To ensure adequate steps are taken to protect and enhance the ecology of the area.
34. To minimise disturbance to residents in the vicinity of the wind farm.
35. To minimise disturbance to residents in the vicinity of the wind farm.
36. To minimise disturbance to residents in the vicinity of the wind farm.
37. To minimise disturbance to residents in the vicinity of the wind farm.

NOTES TO APPLICANT:

In respect of Public Footpath No. 67, the developer should contact the County Highways section to discuss the approach to the reinstatement/use prior to any works commencing on site. The Public Rights of Way Section should be contacted on 01824 706923, if diversion works are proposed, and a diversion application form should be obtained at least 9 months prior to commencement of any building works.

Any waste removed from site must be by a registered waste carrier and accompanied by waste transfer notes. These notes must be kept for a minimum period of two years.

The applicant should be aware that the construction of any dam, weir or other like structure which affects the flow in a watercourse requires the prior formal Consent of Environment Agency Wales' Flood Defence Department. Before any works are carried out in a watercourse the applicant should contact Duncan Quincey on 01244 894528 to discuss whether a consent is required.

In connection with Condition 33, you should contact the case officer, CCW and RSPB Cymru to discuss details of the proposals for protecting the SSSI, limiting damage, and disturbance, and the restoration of habitat, including the provision of 'buffer zones' next to the SSSI, and the restoration of upland heath on the site, and a programme of grey squirrel control.

THE GUIDANCE NOTES IN RELATION TO NOISE CONDITIONS

The following paragraphs are based upon steps 2-6 specified in Section 2 of the Supplementary Guidance Notes to the Planning Obligation contained within pages 102 et seq of "The Assessment and Rating of Noise from Wind Farms, ETSU-R-97" published by ETSU for the Department of Trade and Industry. It has been adapted in the light of experience of actual compliance measurements. It is further adapted here to allow for the condition where more than one wind farm may affect a property.

NOTE 1

Values of the LA90,10min noise statistic should be measured at the affected property using a sound level meter of at least IEC 651 Type 1 quality. This should be fitted with a ½" diameter microphone and calibrated in accordance with the procedure specified in BS 4142: 1990.

The microphone should be mounted on a tripod at 1.2 - 1.5 m above ground level, fitted with a two layer windshield wind shield or suitable equivalent, and placed in the vicinity of, and external to, the property.

The intention is that, as far as possible, the measurements should be made in "free-field" conditions. To achieve this, the microphone should be placed at least 10m away from the building facade or any reflecting surface, where possible, and no less than 3.5m away where this is not possible with appropriate adjustment made to measured levels to account for facade effects.

The LA90,10min measurements should be synchronised with measurements of the 10-minute average wind speed and with operational data from the turbine control systems of the wind farm or farms.

The wind speed and wind direction and a note of all 10 minute periods when one or more of the relevant set of turbines was not operating normally should be provided to the consultant to enable an analysis to take place.

The "relevant set" of turbines is the six turbines nearest to the monitoring location. The precise definition of "normal operation" should be agreed in writing with the local authority on the basis of data available but should generally be taken to mean when the turbine power output is not significantly different from the reference power curve using the nacelle anemometer.

In the interests of commercial confidentiality no information is required to be provided for individual turbines or on the nature of any abnormality or for any period during which noise monitoring is not taking place.

NOTE 2

The noise measurements should be made over a period of time sufficient to provide not less than 100 valid data points. Measurements should also be made over a sufficient period to provide valid data points throughout the range of wind speeds considered by the local authority to be most critical. Valid data points are those that remain after the following data have been excluded:

All periods during rainfall.

All periods during which wind direction is more than 45 degrees from every line from each of the turbines in the relevant set and the measurement position.

All periods during which turbine operation was not normal.

A least squares, "best fit" curve should be fitted to the data points.

NOTE 3

Where, in the opinion of the Local Authority, the noise emission contains a tonal component, the following rating procedure should be used. This is based on the repeated application of a tonal assessment methodology.

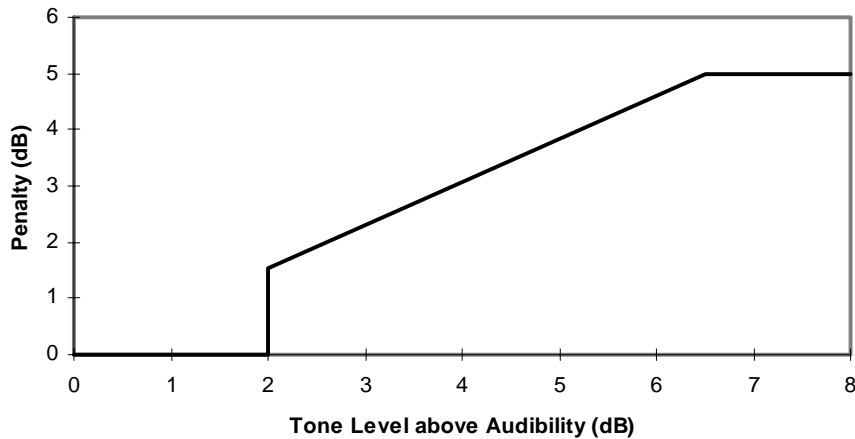
For each 10-minute interval for which LA90,10min data have been obtained, a tonal assessment is performed on noise emission during 2-minutes of the 10-minute period. The 2-minute periods should be regularly spaced at 10-minute intervals provided that uninterrupted clean data are obtained.

For each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference, $*L_{tm}$, is calculated by comparison with the audibility criterion given in Section 2.1 on page 104 et seq of ETSU-R-97.

The margin above audibility is plotted against wind speed for each of the 2-minute samples. For samples for which the tones were inaudible or no tone was identified, substitute a value of zero audibility.

A linear regression is then performed to establish the margin above audibility at the assessed wind speed. If there is no apparent trend with wind speed then a simple arithmetic average will suffice.

The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



The rating level at each wind speed is the arithmetic sum of the wind farm noise level, as determined from the best fit curve described in Note 2, and the penalty for tonal noise.

The rating level shall be determined for each wind speed. If the values lie below the maximum values of turbine noise indicated by the table in the annex to these conditions then no further action is necessary.

NOTE 4

If the rating level is above the limit, a correction for the influence of background noise should be made. This may be achieved by repeating the steps in Note 2, with the wind farm that is the subject of the complaint switched off, and determining the background noise (including the noise from any other wind farm still operating) at the assessed wind speed, L_b . The wind farm noise at this speed, L_w , is then calculated as follows where L_a is the measured level with turbines running but without the addition of any tonal penalty:

$$L_w = 10 \log \left(10^{\frac{L_a}{10}} - 10^{\frac{L_b}{10}} \right)$$

The Rating level is re-calculated by adding the tonal penalty (if any) to the wind farm noise. If the rating level lies below the values indicated from the table in the annex then no further action is required. If the rating level exceeds any of the turbine noise levels in the table in the Annex then the development fails to comply with Planning Condition 37.

NOTE 5

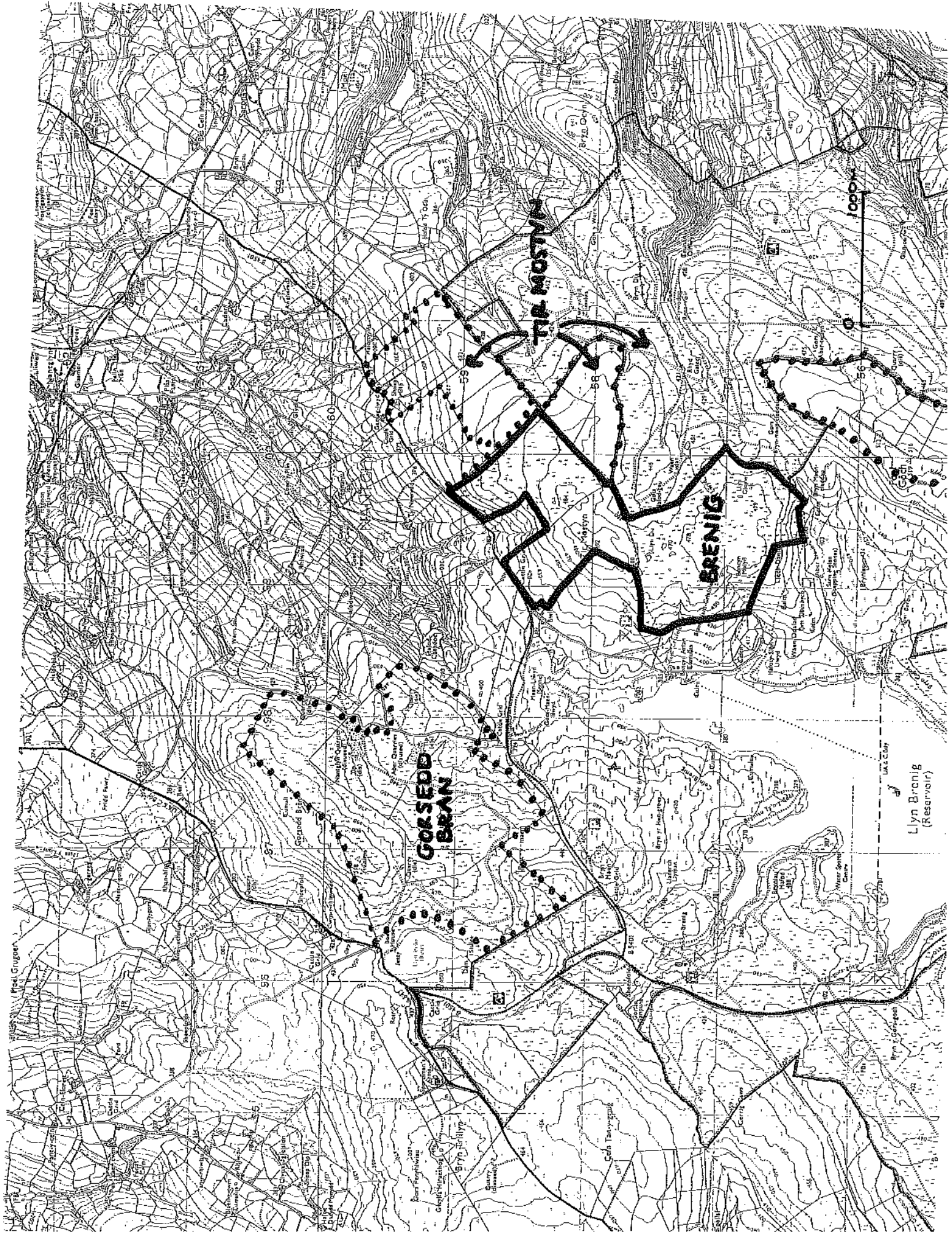
Where in the opinion of the Local Authority the complaint of noise relates to more than one wind farm or the Local Authority considers that it may be due to more than one wind farm the wind farms under suspicion (the nominated wind farms) should be identified in writing to the operators by the Local Authority. The procedures above should be carried out for each of the nominated wind farms. In practice this will normally mean that the same measurement data obtained by the procedure described above in notes 1 to 3 can be analysed separately for each wind farm though the duration of the measurements may have to be longer. Note that each analysis should use the wind speed measurements from the wind farm being assessed.

Should it be necessary to perform the procedure in Note 4 this may require that any one or more of the nominated wind farms to be switched off as required by the Local Authority. In the interests of clarity, if the procedure in Note 4 is not necessary then all nominated wind farms comply with the planning condition.

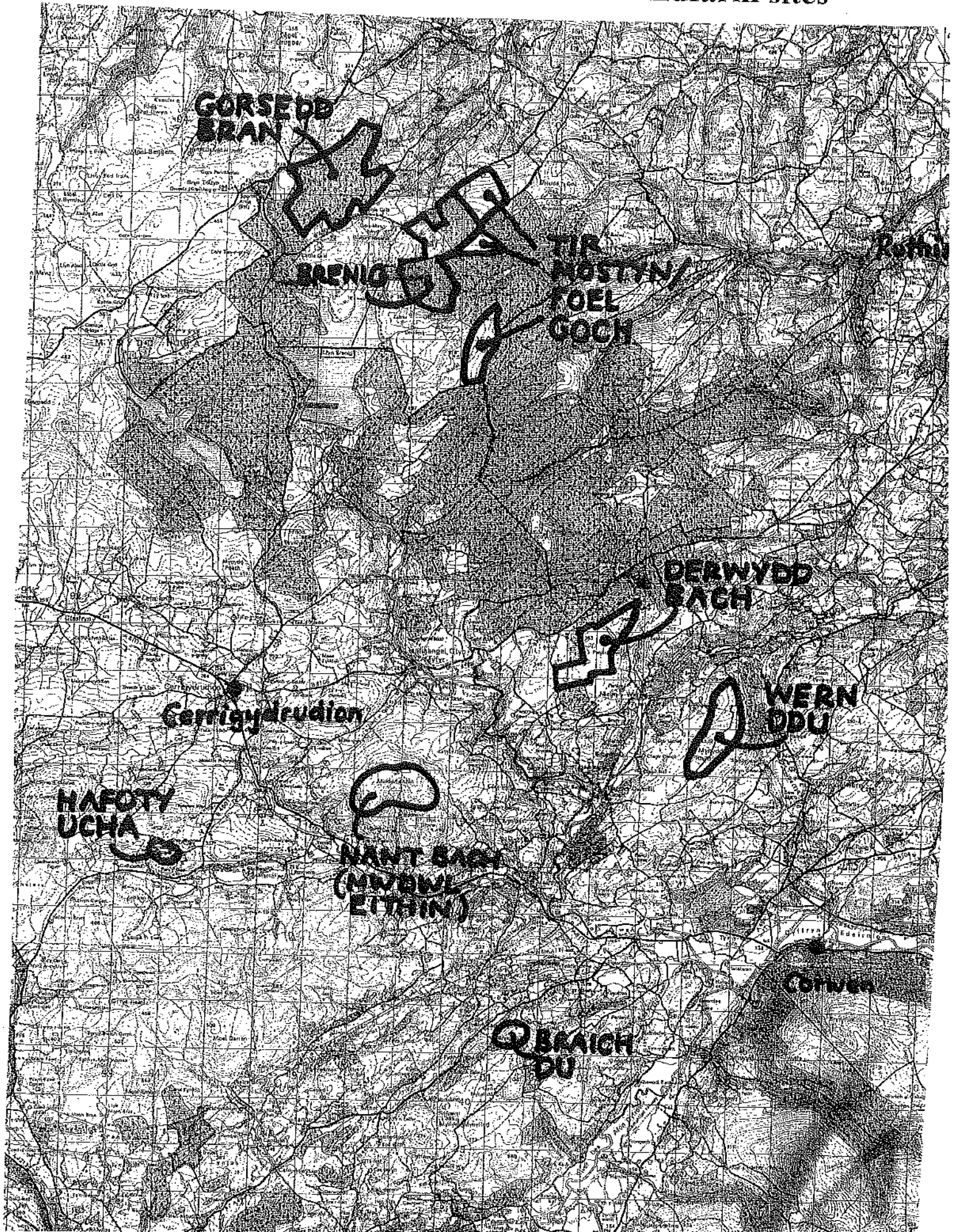
Application 25/2007/0565/PF
Brenig windfarm

APPENDICIES TO REPORT

- 1. Site layout plan**
- 2. Relationship with dwellings**
- 3. Relative location of windfarm sites**
- 4. Unitary Development Plan Policies
MEW 8 and MEW10**
- 5. TAN 8 - Strategic Search Area A**
- 6. Conwy/Denbighshire Interim Planning
Guidance - Clocaenog Wind Farm Zone**
- 7. List of individuals making
representation on the application**



Plan showing relative location of windfarm sites



Policy MEW 6 - Protection of Mineral Operations & Resources

DEVELOPMENT THAT HAS AN UNACCEPTABLE EFFECT ON EXISTING MINERAL OPERATIONS, OR THAT STERILISES MINERAL RESERVES SUCH THAT FUTURE EXTRACTION WOULD BE PREJUDICED, WILL NOT NORMALLY BE PERMITTED. WHERE OTHER PERMITTED DEVELOPMENT IS LIKELY TO STERILISE MINERAL RESERVES, SCHEMES FOR THE REMOVAL OF THE MINERAL WILL BE SUPPORTED IN PRINCIPLE, SUBJECT TO THE REQUIREMENTS OF OTHER PLAN POLICIES PARTICULARLY MEW 1 AND MEW 2.

The Council will seek to ensure that development is not unreasonably affected by mineral operations and vice - versa. The Council will also seek to safeguard mineral reserves from development proposals likely to affect their future extraction. Whilst workable mineral reserves normally occur within the open countryside, even the limited development acceptable under open countryside policies can sterilise or hinder their future extraction. The Council will therefore seek to preserve mineral reserves for the future. The identification of mineral reserves will in itself create no presumption that proposals for mineral extraction will be acceptable. Further guidance is available from the Council's Supplementary Planning Guidance series

Policy MEW 7 - Dormant Sites

FURTHER MINERAL EXTRACTION AT DORMANT SITES WILL BE TREATED AS IF IT WERE FOR AN APPLICATION FOR NEW MINERALS OPERATION NOTWITHSTANDING THAT THE VALIDITY OF THE PERMISSION IS RECOGNISED.

A number of dormant mineral sites in the County benefit from valid planning permissions dating back to the late 1940's and early 1950's. Many of these sites were granted permission unconditionally or subject to very basic conditions which today are totally inadequate for controlling the development and safeguarding the environment.

The Planning and Compensation Act 1991 and the Environment Act 1995 legally require operators and owners of both active and dormant sites to submit a scheme of conditions for a revised set of modern working and restoration conditions. After the 1st November 1995 and 1st May 1991 it became unlawful to work dormant Review and Interim Development Order sites respectively until a set of full modern working, environmental and restoration conditions had been approved by the MPA. Subsequently, the Council will treat any proposal for further mineral extraction at a dormant site as an application for a new mineral operation.

ENERGY

Policy MEW 8 - Renewable Energy

DEVELOPMENT THAT GENERATES OR CAPTURES ENERGY FROM NATURALLY SUSTAINABLE SOURCES WILL BE SUPPORTED IN PRINCIPLE AS FAR AS IS COMPATIBLE WITH OTHER PLAN POLICIES. IN PARTICULAR, DEVELOPMENT WILL ONLY BE PERMITTED WHERE THERE IS NO UNACCEPTABLE EFFECT TO THE ENVIRONMENTAL QUALITY OF THE LOCALITY.

Planning Policy Wales (2002), advocates the exploitation and development of renewable energy sources wherever they have prospects of being economically attractive and environmentally acceptable. Forms of renewable energy include hydro power, wind energy, solar systems, landfill gas, anaerobic digestion, biomass, (wood fuel) and waste combustion. The Council is committed to



considering the contribution the plan area is able to make in meeting need on a local, regional and national basis.

However, there is no justification for this to be at the expense of other important concerns such as landscape and nature conservation protection. In order to reconcile these different issues it will therefore be necessary to balance the commitment to encourage renewable energy with the local and national need to conserve the environment and the landscape for its own sake.

.....

Policy MEW 9 - Hydro-Electric Power

HYDRO-ELECTRIC POWER SCHEMES WILL BE PERMITTED PROVIDED THAT:

- i) THERE IS NO UNACCEPTABLE HARM ON THE HYDROLOGICAL SYSTEM, INCLUDING THE QUANTITY AND QUALITY OF GROUND AND SURFACE WATERS, TO THE DETRIMENT OF BIODIVERSITY OF THE NATURAL ENVIRONMENT, PROTECTED SITES AND SPECIES;
- ii) THE TURBINE HOUSE DOES NOT UNACCEPTABLY HARM THE LANDSCAPE BY VIRTUE OF ITS SITING, SCALE, DESIGN AND MATERIALS;
- iii) POWER LINES, HEADRACE AND TAILRACE PIPES SHALL NOT UNACCEPTABLY HARM THE VISUAL APPEARANCE OF THE AREA. IN THE DESIGNATED AONB AND AOB THE COUNCIL WILL REQUIRE DEVELOPERS TO UNDERGROUND OR RE-ALIGN PIPES AND POWER CABLES TO TAKE ACCOUNT OF THE NATURAL LANDSCAPE FEATURES;
- iv) THE PROPOSAL UTILISES EXISTING WATER RESOURCES SUCH AS RESERVOIRS AND DAMS. WHERE NEW DAMS AND RESERVOIRS ARE PROPOSED, THE COUNCIL WILL ENCOURAGE THE DEVELOPMENT OF HYDRO-ELECTRIC POWER SCHEMES AS PART OF THE PROPOSAL;
- v) THE PROPOSAL DOES NOT CREATE UNACCEPTABLE INCREASES IN NOISE, VIBRATION, AIR POLLUTION AND TRAFFIC LEVELS DURING OR AFTER CONSTRUCTION;
- vi) THERE IS NO UNACCEPTABLE HARM ON AREAS OF CONSERVATION VALUE OR FEATURES OF ARCHAEOLOGICAL, HISTORIC OR ARCHITECTURAL IMPORTANCE.

The impact of Hydro-Electric schemes on the natural environment of the County requires thorough consideration. Where appropriate, the Council may request the applicant to submit an Environmental Statement in order to assist with the full environmental appraisal of the project. The Council will consult with the Environment Agency Wales in all proposals to ensure that the development is compatible with the many other uses to which a river is put.

.....

Policy MEW 10 - Wind Power

WIND TURBINES OR WINDFARMS, INCLUDING ANY ANCILLARY ASSOCIATED DEVELOPMENTS, WILL BE PERMITTED PROVIDED THAT:

- i) ALL DETAILS OF ASSOCIATED ANCILLARY DEVELOPMENT ARE SUBMITTED WITH THE PLANNING APPLICATION AS AN INTEGRAL PART OF THE SCHEME;

- ii) THERE IS NO UNACCEPTABLE HARM TO: THE SETTING OF LISTED BUILDINGS; CONSERVATION AREAS; AREAS OR FEATURES OF ARCHAEOLOGICAL; HISTORIC OR ARCHITECTURAL IMPORTANCE;
- iii) THE PROPOSAL WILL NOT UNACCEPTABLY HARM THE CHARACTER AND APPEARANCE OF THE LANDSCAPE ESPECIALLY THE AONB, AOB, LLA'S, HISTORIC LANDSCAPES OR THE SNOWDONIA NATIONAL PARK;
- iv) THE PROPOSAL DOES NOT LEAD TO UNACCEPTABLE NOISE LEVELS TO RESIDENTIAL AMENITY IN THE SURROUNDING AREA;
- v) THERE IS NO UNACCEPTABLE RISK OR NUISANCE TO THE PUBLIC ARISING FROM WIND TURBINES, SUCH AS SAFETY, SHADOW FLICKER, OR RADIO INTERFERENCE;
- vi) THE EXISTING ROAD NETWORK IS ADEQUATE TO SERVE THE DEVELOPMENT, OR IS MADE ADEQUATE, AND SUITABLE ACCESS IS PROVIDED TO THE NETWORK;
- vii) THE PROPOSAL WOULD NOT LEAD TO AN UNACCEPTABLE CUMULATIVE VISUAL IMPACT IN AN AREA WHERE ZONES OF VISIBILITY OVERLAP. PARTICULAR ATTENTION WILL BE PAID TO THE POTENTIAL EFFECTS OF A PROLIFERATION OF SUCH DEVELOPMENTS IN ANY ONE AREA;
- viii) THE PROPOSAL DOES NOT CAUSE UNACCEPTABLE HARM TO THE ENJOYMENT OF THE LANDSCAPE FOR RECREATIONAL AND TOURISM PURPOSES;
- ix) THERE IS NO UNACCEPTABLE EFFECT ON GROUND WATERS OR PRIVATE WATER SUPPLIES.
- x) THERE IS NO UNACCEPTABLE EFFECT ON NATURE CONSERVATION INTERESTS.

IN THE EVENT THAT DEVELOPMENT IS NON-OPERATIONAL FOR A CONTINUOUS PERIOD OF 6 MONTHS, THE PERMITTED PLANT, EQUIPMENT AND ANY ANCILLARY STRUCTURES WILL BE REQUIRED TO BE DISMANTLED WITHIN 6 MONTHS, REMOVED FROM THE SITE AND RESTORATION UNDERTAKEN TO AN ACCEPTABLE USE AND STANDARD.

All proposals should be accompanied by an Environmental Assessment in accordance with the Town and Country Planning (Assessment of Environmental Effects) (Amended) Regulations 1994.

The Council will seek to ensure that cumulative impact, especially cumulative visual impact, should be minimised. The Council therefore considers it essential that any assessment of the impact of such proposals includes a study of at least a 15 kilometer radius 'zone of visibility' showing where the proposal will be seen from. This is particularly important where zones of visibility of proposals for wind turbines overlap with existing or approved developments. It is also important to control any ancillary development, which will include operational buildings, including bases, car parking areas, storage, fences and access roads.

In the event that any development is non-operational for a continuous period of 6 months, the permitted plant, equipment and any ancillary development will be required to be dismantled within 6 months, removed from the site and restoration undertaken to an acceptable use and standard.

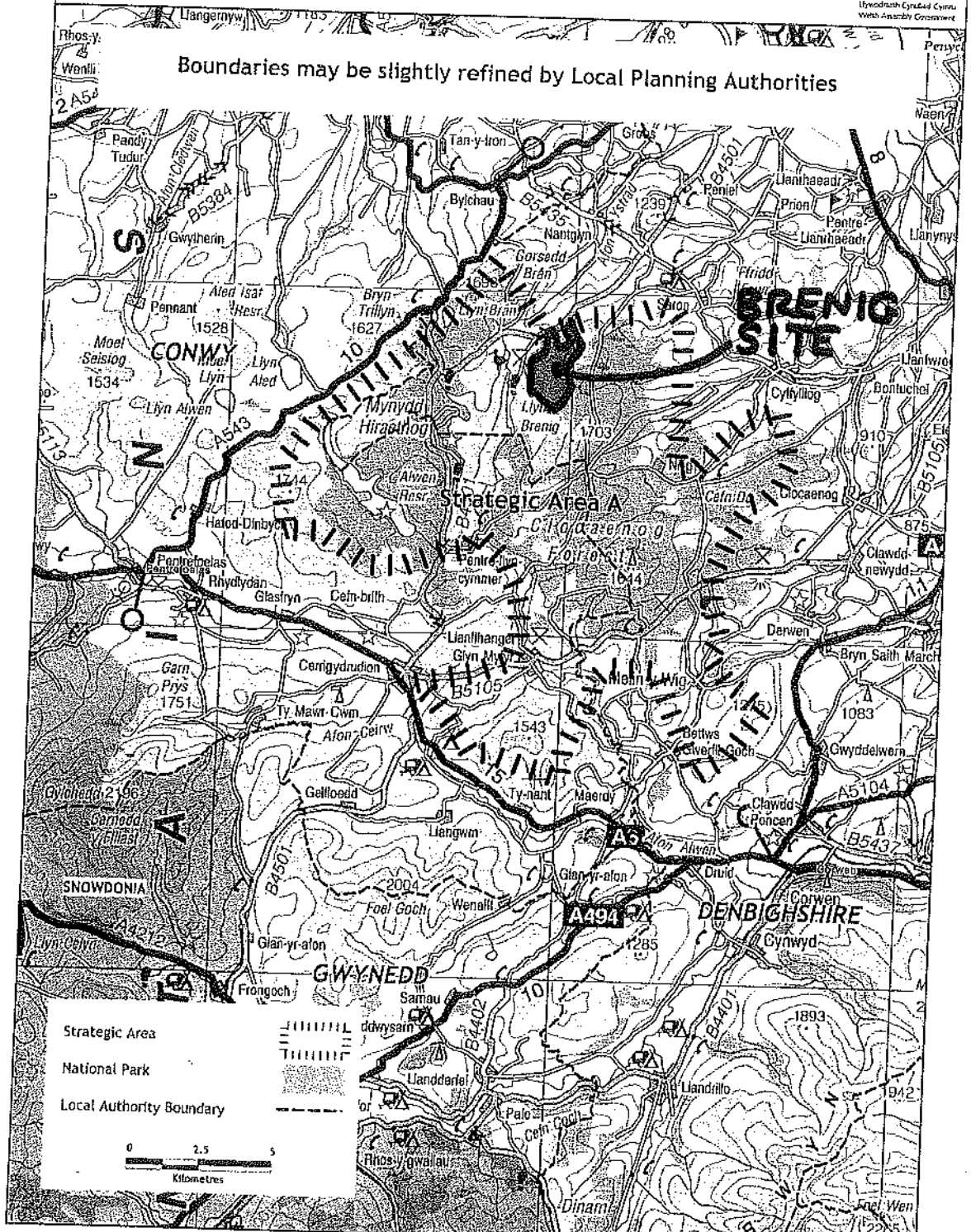
Further guidance is available from the Council's Supplementary Planning Guidance series.

PLANNING FOR RENEWABLE ENERGY
 AREA A. CLOCAENOG FOREST

JULY 2005
 MAP 2



Boundaries may be slightly refined by Local Planning Authorities



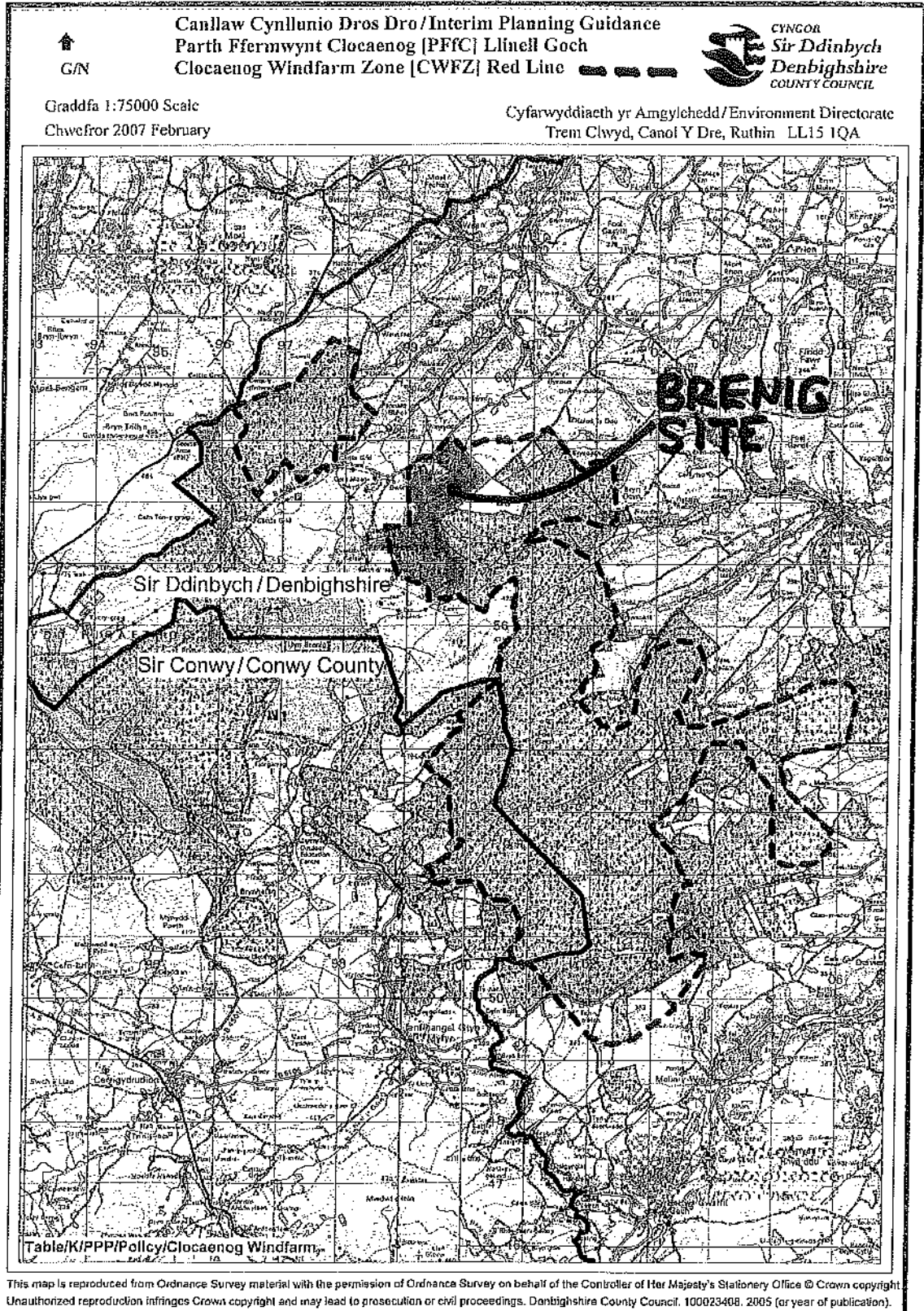
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C46/05-06

Conwy/Denbighshire Interim Planning Guidance - Clocaenog Wind Farm Zone

7. INTERIM PLANNING GUIDANCE POLICIES FOR WIND TURBINE DEVELOPMENT

Map 1: Clocaenog Windfarm Zone



APPENDIX 7

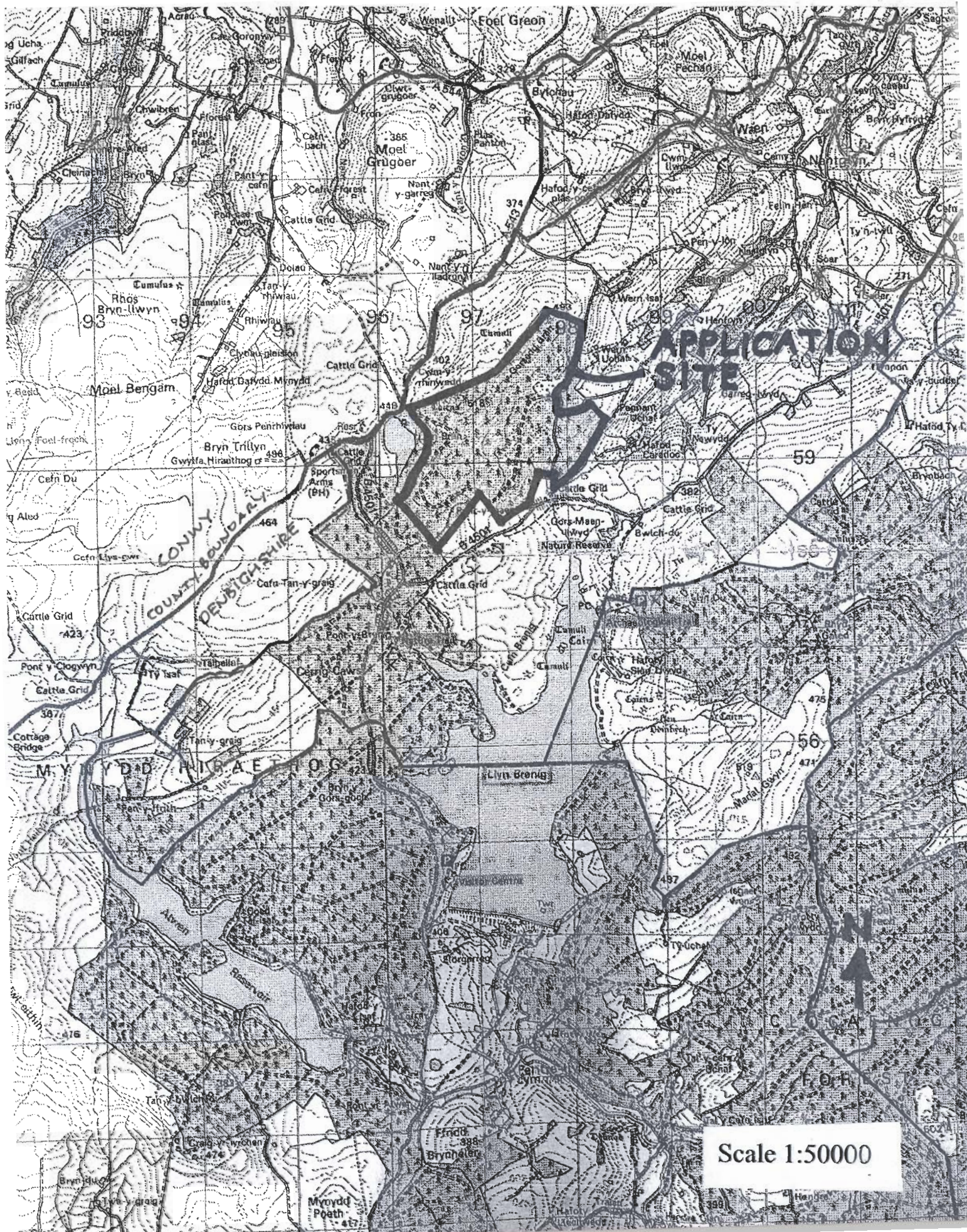
Individuals making representations on the application

Mrs P M Law, Tyr Efail, Nantglyn, Denbigh. LL16 5PL.
Beryl Williams, Ty Draw, Gwytherin, Abergele. LL22 8UY.
Terri Fleming, Ty Isa, Waen, Nantglyn, Denbigh. LL16 5PU.
Ian Gardner, Gwynant, Waen, Nantglyn, Denbigh. LL16 5PU.
william.gordon@tesco.net, Tanfforddwen, Nantglyn, Denbigh. LL16 5PF.
Ms J Young & Mr P Deveport, Nantgwyn, Denbigh. LL16 5RL.
Brynle Williams AM The National Assembly for Wales Cardiff Bay Cardiff CF99 1NA
Darren Millar AM, National Assembly for Wales
Mrs David Kerr-Wilson, Mysevin, Nantglyn
Michael Skuse, DART, Caenant, Llangynhafal
Mr & Mrs A Evans, Pendre, Tan y Fron, Byichau
Paul Cassidy, Penrhyn, Cyffylliog
Williams Eurig Williams, Hafod, Gwytherin
Dewi Wilkinson, Pant Glas Canol, Bontuchel
William Davies, Derlwyn, Cyffylliog
Claire (claire@cobaltadvantage.com)
Alun Williams, Hafod, Gwytherin
Mr Tudor Thomas, Merddyn, Gwytherin, Abergele
Owner / Occupier, Bryn Barant, Llangernyw
Beryl Williams, Ty drawm Gwytherin
Rhys Williams, Tyn Y Caeau, Gwythwerin
Garth Parker, Cetrin, Soar, Nantglyn
Peter Southgate, Snowdon View, Dolwyddelan
Ms Janet Bord, Henblas, Mwrog Street, Ruthin
Dr. G. C. Harborne, Cefn y Maes, Nantglyn
Mr D Sartin, Bron Ffynnon, Waen, Nantglyn
Wing Commender D H Insall, Blodnant, Tynant, Corwen
Mr Emlyn Ellis Jones, Erw Gilfach, Llangernyw, Abergele
Mr Bryn Jones, Dolwen Fawr, Llangernyw
Mr Ian Gardner, Gwynant, Waen, Nantglyn
Mr & Mrs P Sandle, Llygad yr Haul, Waen, Nantglyn
Jill Wilcox-Jones, Pen y Banc, Waen, Nantglyn
Mr Andrew Wilcox-Jones <andywilcoxjones@hotmail.com>
Dr D J Winter, Cefn y Maes, Nantglyn
Mrs M Stones, Pen Waen Bach, Waen, Nantglyn
Mr M Ward, Waen las, Waen, Nantglyn
Mrs A Ward, Waen Las, Waen, Nantglyn
Mr Gwyn Williams, Dolwen Bach, Llangernyw
Ms J Dutton, Bwthyn Penllan, Nantglyn
Mr & Mrs R & J Welch, Plas Nantglyn, Nantglyn
Mr E Foulkes, Nant Isaf, Llanfair T H
Mr G Howatson, Ty Newydd, Nantglyn
S & L Innes-Davies, Tain Foel, Llansannan
Mr M Howatson, Awel y Brenig, Nantglyn
H Edwards, Pannant Uchaf, Nantglyn
Mr Emyr Pierce, Garreg Lwyd, Nantglyn
Jane York, Pen Y Bryn, Nantglyn
Geoff York, Pen Y Bryn, Nantglyn
R G Bitty, Tyn Llidiart, Nantglyn
Chris Dutton, Bwthyn, Penllan, Nantglyn
Mark Isherwood AM, National Assembly for Wales, Cardiff
Mr Meirion Howatson, Awel y Brenig, Nantglyn
Emyr Wilkinson, Wern To, Llanrhaeadr
Mr & Mrs Griffith, Brenig, 12 St Georges Cresc., Rhyl

R Davies, Bron Haul, Peniel
J. Trebor Roberts, Acre Isaf, Llansannan
Ian Rogers, Lodge Isa, Betws Gwerfil Goch, Corwen
Mrs P Leobham, 5 Rhodfa Gwilym, St Asaph
Glyn Davies, Ty'n Ffynnon, Nantglyn
D A Evans, Nant y Merddyn, Nantglyn
T E Davies, Saron, Denbigh
Peter Thompson, Maes Cadarn, Nantglyn
Mr & Mrs Beckwith, Ty Felin Newydd, Waen, Nantglyn
Mr & Mrs Fouikes, Plas Fam, Nantglyn
R H Roberts, Cae Ddu, Llansannan, Denbigh
Frank Roberts, Cwm y Rhinwedd, Bylchau
P Seymour, Yr Hen Dy, Tyn Ffridd, Saron
J Yates, Hafod Ty Goch, Saron
Dr Martin & Mrs P Woodward, Ty Y Pistyll Bach, Bylchau
Wendy Charles-Warner, Hafod Eiwyl Hall, Bylchau
J Merfyn & J Jones, Castell y Waen, Nantglyn
J Brett, Segrwyd Mill Cottage, Nantglyn
Michael Williams, CHA, Isgaerwen, Pentrellyncymmer, Corwen
Mark Isherwood AM, Cardiff Bay, Cardiff
Andrew Robson, Pen y Gaer Isa, Llanfihangael GM, Corwen
Ann Robson, Pen y Gaer Isa, Llanfihangael GM, Corwen
Emrys Williams, oChr y Cefn, Llansannan
Janet Mpseley, Lluest Bach, Craig Cefn Parc, Swansea
David Morris, Bronant, Groes, Denbigh
G Jones, Foel Eryr, Bylchau
I W Davies, Tai Isa, Saron, Dinbych
Mr & Mrs Manson, Hendre Aled Lodge, Llansannan
Mr Eilir Edwards, 37 Lliwyn Menlli, Ruthin
Ms Janine Avery, 6 Bryn y Baal Cottages, Mold
Mrs J Langley, Fron Farm, Llanfynydd
Elliwl Alwen, Gwern Crugyn, Llangernyw
Mr Owain Trewyn, 3 Maes Ffynnon, Ruthin
Carwyn Ap Myrddin, Llanerch Goch, Capel Garmon
Mr. Aron Jones, Padog, Tan Llan, Llanrwst
Mr. C. Keating, Ffordd Deg, Tan y Fron, Bylchau
Dilys Williams, Plas Hyfryd, Ffordd Llanddaged, Llanrwst
Idris Williams, 3, Picton Terrace, Blaenau Ffestiniog, Gwynedd
Wyn Williams, Golygfa'r Dyffryn, Ffordd Bryn Saith Llanddaged Llanrwst
Greta Jams, 5, Tan y Ffordd, Bethel, Caernarfon
Mr. Dafydd Rhun, Bryn Cyndlas, Nefyn, Pwllheli
John L. Williams, Rhos Grug, Llansannan, Dinbych
Mr. Alec Young, Bryn Gwyn, Trawsfynydd
R. E. Williams, Llethr, Gwytherin
Enfys Roberts, Gwynfryn, Ceunant, Llanrug, Gwynedd.
Heledd Evans, 15 Lincoln St, Canton, Caerdydd. CF5 1JX.
Myfyr Williams, Deunant Isa, Llansannan, Denbigh. LL16 5NN.
Mrs B Thomas, 143 Bryn Aweilon, Buckley, Flintshire.
K. Owen, Yr Hen Ficerdy, Fyny'r Allt, Llanrwst
C. Blackburn, Trefair, Tan y Fron, Bylchau
Mr. A. Roberts, Trem Afon, Llangernyw, Abergele
Mr. L. Jones, Ffynnon Uchaf, Manod, Blaenau Ffestiniog
Miss H. Rogers, 3, Maes y Delyn, Cyffylliog
Siawn Hywel, Tai Duon, Padog, Betws y Coed, Conwy LL24 0HL
Nerys Dobson, Penrhwyfa, Maenan, Llanrwst, Conwy. LL26 0UF.
Mrs Joan Owen, Deunant Bach, Llansannan, Dinbych. LL16 5NH.
G & A Howatson, 10 Maes Grugor, Bylchau, Dinbych. LL16 5NA.
Norman Hughes, Holborn, Groes, Dinbych. LL16 5BL.
Mrs L Powell, 2 Pendre, Ffordd Tal Y Bont, Llanrwst. LL26 1AU.
Rosemary Woodruff, Felindre Mill, LLanrhystud, Ceredigion. SY23 5AL.
Huw Roberts, Tai Uchaf, Clyd, Blaenau Ffestiniog, Gwynedd.
John K Jones, Tan y Ffordd, Tan y Fron, Bylchau. LL16 5NP.
P J Amos, Oriol, Valley Road, Ffrith, Wreccsam. LL11 5LP.

Mair Williams, Bod Alaw, Bylchau, Dinbych. LL16 5NA.
Manon Jones, Pen Porchell Uchaf, Henllan, Dinbych. LL16 5DD.
Lowri Davies, Meithrinfa 'Bobol Bach', Tan y Fron, Bylchau, Dinbych.
Edward W Davies, Glan Dwr, Clocaenog, Rhuthun. LL15 2AY.
Bedwyr ap Gwyn, 4/2 Stryd Goronwy, Gerlan, Bethesda. LL57 3TT.
John Owen, 18 Bronallt, Groes, Dinbych.
Mrs R Owen, 29 Hill Side Court, Treffynnon, Sir Fflint. CH8 7PJ.
M B Jones, 7 Maes Caenog, Clocaenog, Rhuthun. LL15 2AU.
Arthur Jones, Bryn Bod, Rhydgaled, Dinbych.
Rhian Jones, 8 Maes Grugor, Bylchau, Dinbych. LL16 5NA.
Bob Williams, Fron Relen Fawr, Henllan, Dinbych. LL16 5BU.
Osian Jones, Tyddyn Isa, Groes, Dinbych. LL16 5BL.
R Owen, Pant y Celyn, Clocaenog, Rhuthun. LL15 2AT.
Mr Roberts, Erw'r Ffordd, Gaerwen, Mon. LL60 6BN.
Llyr Dafydd, Esgair Eithin, Llangernyw, Abergel. LL22 8RG.
J Tilley, Cefn Du Farm, Henllan, Denbigh. LL16 5BY.
P Lloyd, Waenfawr, Groes, Dinbych.
Ms. C. Williams, Winllan Bach, Groes, Dinbych
Mr. E. Davies, Groes Fawr, Groes
Catherine Owen, 16 Bronallt, Groes
Mr. A. Lloyd, Derwen Gornel, Lawnt, Denbigh
G. Atkinson, 10, Maes Caenog, Clocaenog
Miss D. Hywel, Tai Duon, Padog, Betws y Coed
Mr. I. Davies, Wenallt, Bylchau, Dinbych
Ms. C. Jones, 14, Maes Lliwen, Nantglyn
Mr. S. Geary, Fron Fawr, Cyffylliog
Mrs. M. Wilson, Glandwr, Nantglyn
G. Williams, Afallon, 6, Maes Grugor, Bylchau
Mr. G. Evans, Bo Dawel, Saron
Mrs. Catrin Davies, Nant y wrach bach, Llanrwst
Rhydian Parry, Plas Trefor, Cyffylliog
D. Evans, Bryn Bigad, Tan y Fron, Bylchau
Janet Davies, Pen y Parc, Tir y Fron Lane, Pontybodkin, Mold
Anna Haf-Morgan, 23, Garreg Lwyd, Gwyddelwern
Mr. R. Vernon, 3, Ffordd gogor, Llansannan
P. Sheffield, 11, Maes Aled, Llansannan
Mr. D. Owen, 2, The Old Vicarage, Town Hill, Llanrwst
Tir Mostyn & Foel Goch Ltd, 2 More London Riverside, London SE1 2AP

Gorsedd Bran windfarm - location plan



ITEM NO:	6
WARD NO:	Llanrhaeadr Yng Nghinmeirch
APPLICATION NO:	25/2007/0642/ PF
PROPOSAL:	Construction of 13 wind turbine generators (up to 125m in overall height) c/w electrical control room & compound area, new and improved access tracks, underground cabling, 80m anemometry mast, ancillary works and equipment; temporary construction works; new vehicular access from the minor country road; removal of conifer forest
LOCATION:	Gorsedd Bran Nantglyn
APPLICANT:	Tegni Cymru Cyf.
CONSTRAINTS:	SSSI Public Footpath / Bridleway Open Country (CROW act)
PUBLICITY UNDERTAKEN:	Site Notice - Yes Press Notice - Yes Neighbour letters - Yes

CONSULTATION RESPONSES:

1. NANTGLYN COMMUNITY COUNCIL

"A meeting was held in Nantglyn on 14th August to which all local residents were invited. The purpose of the meeting was to consult with local residents with regard to the above applications. The meeting was well attended.

The Council were unanimously asked to strongly object to both applications. Nantglyn is the closest community to the proposed developments and we therefore ask that you give appropriate weight to this objection.

The following is a summary of the concerns expressed by local residents.

Noise

A number of local people are already impacted by noise from the existing Tir Mostyn development. Even those who are not so impacted are concerned lest the cumulative impact of two more developments should tip this balance. It was stated that the impact would widen the sector from which the wind blows. There was also concern as to how noise complaints might be dealt with when dealing with three different developments. Particular concern was expressed regarding the Gorsedd Bran development.

Visual

Again the issue of the cumulative impact was expressed. The fact that the turbines at Tir Mostyn are only 75m whilst the new ones would be up to 125m was a consideration.

Water

Some residents are concerned regarding disturbance to their water supplies.

Decommissioning

It was felt that a bond should be secured to ensure adequate decommissioning.

Electricity Connection

A great deal of discussion took place on this issue. It is concerning that no information is available as to how the turbines will be connected to the grid. It is feared that a number of developers within the SSA might join together resulting in new pylons being erected.

Property Prices

All present at the meeting were convinced that the Tir Mostyn development had already affected the prices of properties in the area. There are instances of potential buyers withdrawing when they hear of new turbines.

Construction

It was felt that very little local labour or suppliers would benefit from the developments. There was also concern regarding disruption during construction.

Trees

Many residents don't understand why it is being permitted to remove large areas of forest to accommodate wind turbines. Trees absorb CO². They also benefit water absorption in the ground.

Because of all the above, please record this council's strong objection to both applications".

2. LLANRHAEADR Y.C. COMMUNITY COUNCIL

- i) The majority of local residents and electorate oppose the planning application.
- ii) The development is considered likely to result in significant harm to the character and quality of an attractive rural landscape and to contribute to an unacceptable cumulative and sequential visual impact with other existing, approved, and potential future wind turbine developments in the area.
- iii) The development is considered likely to have a significant adverse effect on the residential amenities of local properties.
- iv) The development would lead to an unacceptable noise levels to residential amenity in the surrounding area and villages.
- v) The development would cause unacceptable harm to the enjoyment of the landscape for recreational and tourism purposes.
- vi) The development would have an impact on wildlife such as the Red Kite bird of prey which relies on the existing Forestry environment.
- vii) The clear fell of such a large area of forestry should not be allowed as this would have an affect on local employment, CO₂ omissions, etc.
- viii) The current infrastructure would not be able to cope with the additional works, traffic, etc.
- ix) The water table would be affected.
- x) The area currently is considered an area of outstanding beauty".

3. CYFFYLLIOG COMMUNITY COUNCIL

- i) The majority of local residents and electorate oppose the planning application.
- ii) The development is considered likely to result in significant harm to the character and quality of an attractive rural landscape and to contribute to an unacceptable cumulative and sequential visual impact with other existing, approved, and potential future wind turbine developments in the area.
- iii) The development is considered likely to have a significant adverse effect on the residential amenities of local properties.
- iv) The development would lead to an unacceptable noise levels to residential amenity in the surrounding area and villages.
- v) The development would cause unacceptable harm to the enjoyment of the landscape for recreational and tourism purposes.

- vi) The development would have an impact on wildlife such as the Red Kite bird of prey which relies on the existing Forestry environment.
- vii) The clear fell of such a large area of forestry should not be allowed as this would have an affect on local employment, CO2 omissions, etc.
- viii) The current infrastructure would not be able to cope with the additional works, traffic, etc.
- ix) The water table would be affected.
- x) The area currently is considered an area of outstanding beauty”.

4. DERWEN COMMUNITY COUNCIL

- ”i) The majority of local residents and electorate oppose the planning application.
- ii) The development is considered likely to result in significant harm to the character and quality of an attractive rural landscape and to contribute to an unacceptable cumulative and sequential visual impact with other existing, approved, and potential future wind turbine developments in the area.
- iii) The development is considered likely to have a significant adverse effect on the residential amenities of local properties.
- iv) The development would lead to an unacceptable noise levels to residential amenity in the surrounding area and villages.
- v) The development would cause unacceptable harm to the enjoyment of the landscape for recreational and tourism purposes.
- vi) The development would have an impact on wildlife such as the Red Kite bird of prey which relies on the existing Forestry environment.
- vii) The clear fell of such a large area of forestry should not be allowed as this would have an affect on local employment, CO2 omissions, etc.
- viii) The current infrastructure would not be able to cope with the additional works, traffic, etc.
- ix) The water table would be affected.
- x) The area currently is considered an area of outstanding beauty”.

5. CLOCAENOG COMMUNITY COUNCIL

- ”i) The majority of local residents and electorate oppose the planning application.
- ii) The development is considered likely to result in significant harm to the character and quality of an attractive rural landscape and to contribute to an unacceptable cumulative and sequential visual impact with other existing, approved, and potential future wind turbine developments in the area.
- iii) The development is considered likely to have a significant adverse effect on the residential amenities of local properties.
- iv) The development would lead to an unacceptable noise levels to residential amenity in the surrounding area and villages.
- v) The development would cause unacceptable harm to the enjoyment of the landscape for recreational and tourism purposes.
- vi) The development would have an impact on wildlife such as the Red Kite bird of prey which relies on the existing Forestry environment.
- vii) The clear fell of such a large area of forestry should not be allowed as this would have an affect on local employment, CO2 omissions, etc.

- viii) The current infrastructure would not be able to cope with the additional works, traffic, etc.
 - ix) The water table would be affected.
 - x) The area currently is considered an area of outstanding beauty”.
6. COUNTY ARCHAEOLOGIST
(See Clwyd Powys Archaeological Trust response).
 7. COUNTY ECOLOGIST
Requests, in the event of a permission being granted, the production of a Habitat Management Plan and suitable surveys of wildlife and water features.
 8. HEAD OF TRANSPORT & INFRASTRUCTURE
Footpaths Officer
Notes public footpath 13 abuts the development area and requests advisory notes on any consent ensuring no interference with the right of way.

Development Section
Suggests inclusion of conditions to regulate all construction related traffic to the A543 and B4501.
 9. PUBLIC PROTECTION MANAGER
 - i) Pollution Officer
Confirms that having liaised with the Council's Noise Consultant, is in agreement with his recommendations and approach to dealing with the application. States the proposed noise conditions should give sufficient control over windfarm developments to ensure, even cumulatively, they cause minimal disturbance to local residents.
 - ii) Scientific Services Officer – Water Quality/Pollution
Does not object to the application, but draws attention to private properties in the locality which are reliant on streams for water supply. Requests consideration of measures to ensure no adverse impacts on supplies in particular at construction stage (e.g. sedimentation or other pollution).
 10. CLWYDIAN RANGE AONB JOINT ADVISORY COMMITTEE
”The JAC strongly objects to the application on the grounds that it will impact on distant views from the AONB and will have a detrimental effect on the enjoyment of the Clwydian Range, particularly for users of the Offa’s Dyke National Trail and Moel Famau Country Park. The cumulative effects of this application when considered in conjunction with the existing Tir Mostyn windfarm and the permitted Wern Ddu scheme will have a seriously harmful impact on views from the AONB, which will diminish the quality of this nationally protected area. The JAC also has concerns about the wider environmental impacts of the development, including loss of regional biodiversity, hydrology and potential flooding arising from the loss of existing tree cover and the potential impact of electricity grid connections”.
 11. CONWY COUNTY BOROUGH COUNCIL
”The proposal was considered at the Planning Committee at its July meeting, when it resolved to raise no objection to the proposal”.
 12. CLWYD POWYS ARCHAEOLOGICAL TRUST
Agree with the mitigation proposals and have no objection subject to these being made a condition of consent.

Suggest measures be taken to protect any scheduled or unscheduled archaeological sites, by way of robust temporary barriers 30 metres from such features.

13. COUNTRYSIDE COUNCIL FOR WALES

CCW have commented that in broad terms the development conforms to guidance in TAN 8 and the County Council's Interim Planning Guidance, in that it is a large windfarm within the SSA and Clocaenog Wind Farm Zone.

CCW lodged an initial objection on the basis of potential harm to the special features of the adjacent SSSI and the character and appearance of the surrounding Landscape of Special Historic Interest (LSHI).

a) In relation to the Mynydd Hiraethog SSSI, they are prepared to withdraw the holding objection, provided any permission requires the preparation of an Environmental Management Plan as recommended by the Environment Agency Wales.

b) In relation to the potential adverse impact on the Landscape of Special Historic Interest they remain of the opinion that the turbines would appear in a ridge top location in a detached section of the SSA, and would have a significant and harmful impact on the surviving historic landscape to the West. Separate comments are made on the suggested contents of a Habitat Management Plan, and mitigation proposals for bats, and there is support for the commitment to Community Benefits outside the planning process.

14. CAMPAIGN FOR THE PROTECTION OF RURAL WALES

No response (see Hiraethog Alliance response).

15. RSPB CYMRU

Does not object to the application.

RSPB Cymru has carried out an ecological masterplanning exercise in relation to the Clocaenog Windfarm Zone and vicinity with the North Wales Wildlife Trust and CCW, in order to identify at strategic and spatial level habitat management/restoration targets. This is referred to as the Statement of Environmental Master Planning Principles (SEMP). DCC have approved and incorporated the principles of SEMP into the Interim Planning Guidance on Onshore Wind Farms.

RSPB welcome the developer's commitment to manage land in the vicinity of the site boundary for wildlife, and confirm these are in conformity with the SEMP and IPG. Would request additional details of the habitat management, and the use of a Section 106 agreement to deliver the work to restore upland heath on the site and in the vicinity (to include a Land Management Plan (LMP), and steering group to oversee implementation.

RSPB outline specific enhancement works which have been discussed with the applicant as part of a Community Benefit package : and are satisfied that in conjunction with CCW, any negative impact conifer removal may have on red squirrels will be outweighed at this site by a programme of grey squirrel control (grey squirrels being a more serious limit on the viability of red squirrel population at Clocaenog than conifer removal).

16. NORTH WALES WILDLIFE TRUST

No response

17. WELSH ASSEMBLY GOVERNMENT (Department for Sustainability and Rural Development)

Construction has been considered under arrangement in Annex C to TAN 6. Notes the agricultural land classification is Grade 5 and non agricultural (forestry), and does not wish to make any comment.

18. CADW (Ancient Monuments Administration)
Advice is offered purely in relation to the impact on Scheduled Monuments, or Registered Historic Landscapes, Parks and Gardens and without prejudice to the Welsh Assembly Government's consideration of the application if it were to come before it for determination.

Note the site is immediately outside the Denbigh Moors Landscape of Special Historic Interest, but within the historic landscape area defined by the landscape characterisation exercise carried out on the area defined by the Register of Landscapes of Historic Interest, and it is also within the Clocaenog Forest Strategic Search Area.

CADW identify the key issues in respect of their interests as the location and siting within the SSA, cumulative impacts, and the historic landscape.

The conclusion is that whilst accepting the principle of landscape change in the SSA, the specific siting of the development will have a significant impact on the character of this Registered Historic Landscape; and it questions whether the historic landscape has been given any weight in assessments for micro-siting and cumulative impacts in the SSA. CADW does not consider the ridge top to be an appropriate location for the development, and questions whether there is scope for reassessment of siting within the SSA to limit the impacts on the Denbigh Moors Historic Landscape.

19. NTL
No response
20. ITC
No response
21. SPECTRUM PLANNING GROUP
No response
22. BBC (RESEARCH AND DEVELOPMENT)
No response
23. OFCOM
Deal with fixed microwave links managed by Ofcom. Confirm that no civil fixed links should be affected by the proposal.
24. T-MOBILE
No response
25. BT
No response
26. IONICA
No response
27. C & W FREQUENCY MANAGEMENT SERVICES
No response
28. VODAFONE
No response

29. CABLE & WIRELESS
No objections.
30. NATIONAL GRID WIRELESS (formerly CROWN CASTLE UK)
(NGW are responsible for providing the BBC's transmission network and integrity of Re-Broadcast links).
Are aware of the Tir Mostyn site and that there has been interference with a Re-Broadcast link, but tests show this is not sufficiently bad to disrupt operations. Additional sites may add to a cumulative effect, but as the proposed site is further from Cerrigydrudion than Tir Mostyn, there should be less chance of interfering with the link.
31. LIBERTY COMMUNICATIONS
No response
32. JOINT RADIO COMPANY
Analyses proposals on behalf of the UK Fuel and Power Industry, to assess potential for interference to utility companies' radio systems.
Do not foresee any potential problems based on known interference scenarios and the data provided.
33. HOME OFFICE
No response
34. CELL NET
No response
35. ORANGE
No response
36. O²
No response
37. CSS SPECTRUM MANAGEMENT SERVICES
No objections to the proposals.
38. MCA
No response
39. CIVIL AVIATION AUTHORITY
In response to consultation on the submitted application, refer to pre-application advice and comment that the position remains unaltered:
- there may be a need to install aviation obstruction lighting this is dependent on height and if concerns are expressed by other aviation bodies).
- all structures over 300 feet high have to be charted on aviation maps. It is the developer's responsibility to provide details to the Defence Geographic Centre. Stress the need to consult with MoD (Defence Estates) and NATS (formerly National Air Traffic Services).
(For clarification, TAN 8 advises that warning lights are required for structures over 150 metres high).
40. DEFENCE ESTATES
MoD has no concerns with the proposal. Require information from the developers if permission is granted, so records can be updated and military aircraft avoid this area.

41. NATIONAL AIR TRAFFIC SERVICES (NERL Safeguarding)
Proposals have been examined by technical and operational safeguarding teams. Although the development is likely to impact their electronic infrastructure, NATS (En Route) Plc (“NERL”) has no safeguarding objection to the proposal.
- NATS have also confirmed, in response to requests for clarification of their comments, that these are in relation to the details submitted as part of the planning application, and not pre-application/scoping stage consultation, and that issues of cumulative impact with other windfarms was considered.
42. MARITIME & COASTGUARD AGENCY
No objections.
43. THE RAMBLERS
No response
44. ENVIRONMENT AGENCY WALES
Require any approval to include conditions controlling details of foul drainage from control buildings, bunding to contain any oil spills etc; and to avoid contaminated run off (e.g. settlement lagoons and directed drainage ditches).
Requested further information on the potential impacts of increased surface water run off arising from the tree felling and soil erosion, and to demonstrate there are no implications for flood risk to third parties, and have subsequently confirmed that this matter can be addressed in any planning permission by a suitably worded planning condition.
45. HEALTH AND SAFETY EXECUTIVE
HSE do not require notification of applications outside the Consultation Distance of Major Hazard Sites/pipelines.
(There are no listed hazard sites in the vicinity of the site).
46. DART
(Denbighshire Against Rural Turbines)
Object.
1. It is impossible to satisfactorily assess cumulative impact without reference to other windfarm schemes which have not yet come forward (e.g. Forestry Enterprise land in Clocaenog Forest). Consideration should be delayed until the authority is better acquainted with the location/details of that scheme.
2. The location is inappropriate and development will seriously affect the recreational enjoyment of Llyn Brenig.
- TAN 8 accepts landscape change is inevitable in the Strategic Search Areas, but the environmental effects can not be justified by the projects benefits in terms of power generation.
47. CLOUT
(Conwy Locals Opposing Unnecessary Turbine)
Object.
Question basic comments on CO² savings, and the contents of the Environmental Statement.
Main concerns are:-
Landscape and visual impact – cumulative impact/should be an impact assessment for the whole SSA.
Impact on archaeological interests, SSSI, Historic Landscape, wildlife, tourism.
Tree clearance – loss of carbon sink, increased run off leading to potential flooding elsewhere.

Noise impact.
Local impact – people and property.

48. PACT
No response (see Hiraethog Alliance response).

49. HIRAETHOG ALLIANCE
("Alliance of Ramblers Association, CPRW branches, PACT, DART, and CLOUT. Protecting the Landscapes of the Hiraethog Area").

Suggest the application should only be decided when the cumulative effects of all the other applications within the IPG area that are in operation, at planning application stage or scoping can be considered together, including the potential Clocaenog Forest site (Forestry Enterprise Land).

Specific objections are:-

Noise – need to assess cumulative impact with other sites/there are flaws in ETSU-R-97 methodology/planning conditions based on it do not take into account multiple applications, sound transfer issues, types of noise, etc.

Tourism- - potential impact on small-scale tourist facilities in the area.

Ecology – further independent investigation of impact on bat colonies is required.

Community benefit – offer of 'developer gains' should not influence the decision making process.

Liability to residents – impact on water supplies, noise and landscape, property value, tourism income.

EIA issues – Deficiencies in cumulative visual impact assessment, limitations in value of photomontages, misleading statements on CO² savings.

Health and Safety issues – concerns over structural stability of turbines and blades, and need for risk assessments.

As part of the assessment of the application, the County Council has commissioned separate independent reviews of the Environmental Impact Assessment, and the noise appraisal within the Environmental Impact Assessment. The conclusions of these reviews are summarised below:

Institute of Environmental Management and Assessment (IEMA) review of the Environmental Impact Assessment

The Council has sought similar reviews by the IEMA of previous wind turbine applications. The IEMA are an independent body used by many local authorities to undertake qualitative assessments of Environmental Statements (ES), based on UK best practice guidance, not simply statutory requirements.

The IEMA review is based on the contents of the ES and acknowledges that there will be complex technical issues where specialist advice is necessary. It addresses, in turn, the information contained in the ES; an overview of how the ES deals with baseline conditions, the prediction of impacts, evaluation of significance, mitigation and follow up; areas where the ES could be strengthened;

the overall presentation and communication of information; and ends with recommendations.

The IEMA grades the ES against its Review Criteria into A-F grades. In relation to most sections, the ES is Graded C or better, C being 'satisfactory despite omissions and inadequacies'. In relation to the objectivity of the ES, the IEMA applies a C grade and notes that whilst the objectivity is affected by some omissions, it is generally a fairly balanced document providing an unbiased account of the environmental effects with reasoned and justifiable arguments.

Additional information has been sought from the applicants as a result of the IEMA review, and this is referred to as appropriate elsewhere in the report.

Appraisal of Noise Assessment by County Council's Acoustic Consultant

The Council has engaged specialist consultants, (New Acoustics of Clydebank) to undertake a detailed review of the Noise Assessment in the Environmental Statement, and to look critically at the baseline survey work, methodology for assessing impact, consistency with ETSU guidance, the issue of Cumulative Noise Impact, and the practicality of controlling noise levels by condition in the event of permission being granted. For consistency, The same consultant has also been commissioned to undertake the same type of review for the Brenig and Derwydd Bach applications.

The evaluation of noise impact has become more complicated as a result of the submission of a number of windfarm applications at the same period in time, and the likelihood of further such applications in the SSA. One of the key issues is how noise limits and margins above background levels should relate to the cumulative effect of turbines in the area, as received at specific properties, bearing in mind that the ETSU guidance requires that noise limits are to be met by all wind farms in total. In order to progress matters, and having regard to the possibility of further windfarm applications in this area, detailed discussions have taken place between the agents, their noise Consultant, public protection officers and the Council's Consultant, on a completely 'without prejudice' basis, to explore how a common approach may be developed to establish background noise levels, a standard method for calculation of turbine noise, and how a standard can be applied to individual windfarms that would result in the overall ETSU noise standard still being met. The Council's Consultant has taken a lead in this process by drafting a report on the approach to Cumulative Impact Assessment, and suggestions for methodology for assessing background noise levels, calculating turbine noise, modelling cumulative levels, and setting an appropriate noise standard.

Following the dialogue with the applicant's Noise Consultant, The Council's Consultant has forwarded a final report on the noise section of the Environmental Statement. The main points of relevance to the application are:

- The measurement of background noise, and its analysis have been carefully carried out, although no corrections have been made for the effects of the existing Tir Mostyn windfarm.
- The assessment has been made in accordance with ETSU-R-97 for daytime, but not night time, but this does not affect the final assessment.
- In relation to the standard for individual properties set out in the 'Windfarm Cumulative Noise Assessment', 6 properties fail to comply, and 3 fail to comply with the cumulative standard from all windfarms in total. One property fails to meet the upper day time ETSU limit.

- Taking account of Brenig and Tir Mostyn there is no significant cumulative impact in addition to the individual impact described above.
- The report of the Council's Consultant suggests the imposition of four conditions in the event that planning permission is granted. The conditions require:
 - The carrying out, on the reasonable request of the local planning authority, and at the developer's expense by an independent consultant appointed by the Council, of detailed surveys of noise levels, specifically:
 1. Measurement and assessment of noise imissions from the turbines
 2. Measurement and assessment of tonal noise from the development
 - The logging by the operator of wind speed and direction, to allow monitoring of 1 and 2; and the availability of the data on request by the Council.
 - The operation of the turbines within noise levels set out in a separate annex. Separate guidance notes would be attached to assist the interpretation of the noise conditions, measurements etc.

On the separate matter of low frequency noise, the Council's Consultant has indicated he is aware of research on Vibro Acoustic Disease (VAD), but considers this fails to demonstrate the precise nature of VAD, or that there is a causal link between Infrasound and Low Frequency Noise, and VAD. He suggests there is far more evidence that infrasound and low frequency noise from wind turbines are substantially less than many other daily exposures we receive, e.g. from noise levels inside cars, road traffic noise.

RESPONSE TO PUBLICITY:

Up to the time of drafting this report, representations have been received from some 48 private individuals in relation to the application.

Of these responses, 45 contained objections, and 3 expressed support for the scheme.

The origin of the letters is as follows:-

	IN OBJECTION	IN SUPPORT
Community of Nantglyn	30	2
Llanrhaeadr YC.	6	1
Other communities in Denbighshire:-		
Trefnant	1	
Communities in Conwy	5	
Other parts of Wales:		
Cardiff	2	
Swansea	1	

One of the e-mail responses refers to an 'e-petition' sent to the Prime Minister, which contains 38 signatories. The petition states: "We the undersigned petition the Prime Minister to ask the Welsh Assembly and First Minister for Wales to revise Planning Guidance TAN 8 so as to narrow the area where additional windfarms can be developed in communities where there are current windfarm developments".

<u>The main points in letters in SUPPORT of the application</u>	Approximate no. of Representations
--	------------------------------------

<p><u>General</u> Support for principle of production of electrical energy by means of windturbines/ reduction in CO² emissions.</p>	1
<p><u>Specific to the site</u> Suitable conditions can be imposed to control noise levels and to mitigate any wildlife impact/includes restoration of heather moorland/shale/slate waste from quarries should be used for tracks etc./all cabling should be placed underground.</p>	2
<p><u>The main points in OBJECTION to the application</u></p>	Approximate no. of Representations
<p>In terms of the PRINCIPLE of clean/renewable energy and wind turbine development. There are many better and more acceptable technologies for the generation of energy/energy conservation approach should be pursued/system remains dependent on back up from conventional power stations/wind energy is an erratic and unreliable source/offshore developments should be encouraged/case for wind turbine development is flawed/highly subsidised and ineffective response to global warming/inconsistent approach to renewable energy by Welsh Assembly Government.</p>	13
<p><u>In terms of local impact</u> <u>Landscape and visual impact</u> Visual impact increases with larger turbines such as these/cumulative impact of turbines would industrialise the area/impact on amenity and quality of life unacceptable/massive structures on skyline/consideration should be delayed until Council is in possession of all the facts on future applications in this area/development ruins natural landscape/turbines significantly larger than existing ones/should be a limit on height/loss of trees unacceptable and impacts on landscape.</p>	31
<p>Amenity impact <u>Noise</u> Potential for cumulative noise impact with other windfarms/additional noise would be unacceptable/already unacceptable noise from Tir Mostyn windfarms/impact on quality of life/24 hour noise/ETSU methodology for assessing windfarm noise is inappropriate and does not protect people from nuisance or loss of amenity/ground vibration and low frequency noise is not properly assessed/health implications on local population/complaints over noise from Tir Mostyn not yet resolved/full independent evaluation of all background facts and cumulative issues has to be undertaken to assess impacts/how can source of future noise complaints be isolated when there are several wndfarms/arc of wind direction from which noise would arise is greater/resource must be found for regime for future monitoring, and proposed arrangements must be clearly established/concern over incidence of low frequency noise.</p>	38
<p><u>Shadow flicker</u> Potential for shadow flicker from turbines.</p>	1
<p><u>Nature conservation/ecology</u> Potential impact on wildlife, flora and fauna/inadequate mitigation/SSSI is located near</p>	9

to site/side effects would impact on neighbouring land.	
<u>Highways</u> Inconvenience of heavy vehicles and plant travelling along narrow approach roads/damage to roads.	4
<u>Archaeology</u> Turbines may impact on ancient monuments and tumuli.	2
<u>Rural economy</u> Development would discourage tourists from visiting local attractions (Sportsman's Arms, Brenig)/loss of tranquillity.	8
<u>Hydrology/geology</u> Potential impact on water supplies.	1
<u>Other general points</u> Information in Environmental Statement Questions over air safeguarding responses (e.g. whether responses relate to current application or scoping stage information, and why stance of NATS appears to have changed).	1
Public safety Close to public roads and footpaths/threat to air navigation systems/general concerns over structural safety of turbine towers and blades.	2
Impact on property value County Council should compensate those suffering lost value/blight on property/Council Tax reductions would be sought and if successful would reduce income for County Council.	4
Impact on Television reception Potential interference with TV signals.	1
Limited Community Benefits Main beneficiaries are applicant companies and landowners who live outside the area/very limited local employment potential.	4
Absence of information on grid connection May have as much impact as the turbines/should be part of application/concerns remain over health impact of power lines.	7
Inadequate consultation	
Benefits to Denbighshire County Council Must be financial rewards to County Council.	1
Precedent Should be no further development until Strategic Search Area and impact issues are resolved/Denbighshire should set a limit on these developments Denbighshire has played its part in the drive for renewables.	6
Handling of applications Brenig and Gorsedd Bran applications should not be handled separately/County Council does not listen to local people.	1

Impact on tourist related development on adjacent land Should not affect other sustainable developments.	1
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A list of persons who have submitted representations is included as Appendix 7 to the report.

EXPIRY DATE OF APPLICATION: 25/07/2007

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations
- additional information required from applicant
- re-consultations / further publicity necessary on amended plans and / or additional information

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application is seeking planning permission for:
 - i) The erection of 13 wind turbine generators, each with an overall base to tip height 'up to 125 metres tall'. The generating capacity will be between 32.5MW and 39MW (Megawatts), with individual turbines generating 2.5MW – 3.0MW.
 - ii) The erection of a lattice construction anemometry mast, 80 metres in height.
 - iii) The erection of a substation/control room, and switchgear compound close to the propose entrance onto the unclassified road between the B4501 and Nantglyn, near to Turbine 5.
 - iv) The construction of associated access tracks to serve each turbine, leading from the aforementioned new entrance onto the unclassified road, crossing another unclassified road north of Turbine 9, and using some existing forest tracks.
 - v) The excavation of material from 2 disused quarries within the site as 'borrow pits' for the surfacing of new and improved access tracks.
2. The site is referred to as Gorsedd Bran, which is an upland area presently covered in coniferous forest, in private ownership. This lies some 2km to the West of the existing 25 wind turbine development at Tir Mostyn. Geographically, the northern tip of Llyn Brenig is 1km to the South, and the nearest villages are Bwlchau – 2.5km to the North, and Nantglyn – 3km to the North East. Denbigh is 10km to the North East, and Ruthin 14km to the East.

There is a basic location plan at the front of this report, and a number of maps are included as Appendices, which illustrate the location of the site relative to main settlements, private dwellings, and other relevant features/designations. These are referred to in subsequent sections of the report.

3. The site stretches over 2km from North to South, and 2km from West to East. The highest elevation is 518m above sea level. Plan 1 of the appendix is an extract

from the application documents and shows the proposed layout of the site. Plan 2 shows the site's relationship with dwellings in the locality. Plan 3 shows the respective position of the site and other existing, proposed, and consented windfarms in the locality.

4. The nearest private properties to the application site are to the north, east and south. The application documents indicate that Cwm y Rhienwedd is the closest, at 800 metres from the nearest turbine.
5. The application site is located wholly within the Nantglyn Community Council area. The County boundary with Conwy is some 0.5km to the West.
6. The submission confirms the land areas forming part of the site are owned by individuals with addresses in Burford (Oxfordshire), Llangwm, and Ruthin. The owners have been served formal notice by the applicants as part of the application process.
7. The applicant company are indicated as Tegni Cymru, Cyf., with an address in Llangwm, Corwen. The application has been submitted by Tegni, with no agents.
8. The application is one of the latest in a number relating to wind turbine developments in the area. Plan 3 in the Appendix annotates the location of sites in the immediate locality in Denbighshire and Conwy, which have been/are the subject of planning applications. In summary these include:

<u>Status</u>	<u>No. of turbines</u>	<u>Turbine height</u>	(Jan
08)			
<u>Denbighshire</u>			
Operating	Tir Mostyn/Foel Goch	25	75m
Granted (Appeal June 07)	Wern Ddu, Gwyddelwern	4/5	90m/80m
Pending	Brenig, Nantglyn	16	100m
Pending	Derwydd Bach, Melin-y-Wig	10	120m
<u>Conwy</u>			
Operating	Moel Moelogan	12	74m/77/81m
3 turbines	Cwm Penanner	8	93m
Refused	Nant Bach (Mwdwl Eithin)	13	100m
Operating	Hafotty Ucha	4	86m
Operating	<u>Gwynedd</u> Braich Ddu	3	91m

For Members' information, it is understood that the basis of Conwy's refusal of the Nant Bach application was the specific impact on ecological interests, the impact on highway users, and landscape impact (including impact on the setting of the Mwdwl Eithin cairn, a Scheduled Ancient Monument).

DETAILS AND PROGRESS OF THE SUBMISSION

9. The application was acknowledged valid in May 2007, and includes the following documents:
 - a) The standard application forms, ownership certificates and fee.
 - b) A detailed Environmental Statement comprising:-
 - a non technical summary
 - Volume 1 – Environmental Statement Main Report (273 pages)
 - Volume 2 – Environmental Statement Figures (maps, photomontages, wireframes)
 - Volume 3 – Environmental Statement Appendices (construction programme, noise information etc)
 - c) Plans illustrating the site location, layout, access details, and typical details of turbines, tracks, crane pads, and the anemometer mast, the site compound, switch control building, and a habitat improvement and management plan.
10. Members will appreciate that a report of this nature can only provide a broad outline of the contents of what is a highly detailed application containing considerable technical content. All the background documents have been, and remain available for inspection prior to the consideration of the application.

OUTLINE OF THE SUBMISSION

11. The main contents of the application documents are summarised in the following paragraphs:

1) non technical summary, a 6 page précis of the main elements of the proposals and its predicted impacts. On the identified key issues, this outlines:

- a) The background to the submission
 - This refers to the main elements of the scheme outlined previously, and
 - the intention to bury electrical cabling, to use the same access route for construction vehicles from the A5 as for Tir Mostyn,
 - the use of 3 bladed turbines, finished in a semi matt grey colour
 - the felling of the coniferous plantation and to restore the site to its former habitat, upland heather moorland.
 - the location of the site as it is within a defined wind farm zone with a good wind resource, good access and is considered environmentally suitable.
 - a 36 week construction period, preceded by a tree clearance programme which could take up to 12 months to complete.
 - the generating capacity up to 39MW would power approximately 23,896 homes in Wales; and would provide 28% of the target capacity for the dedicated wind farm zone.
 - the operational life would be between 20 and 25 years, after which it would be decommissioned and turbines removed, or an application would be submitted for permission to continue operating.
 - consultations have taken place with statutory consultees prior to formal submission.
 - in terms of the key issues identified in the Environmental Statement; the submission states/concludes

b) The summary findings of the Environmental Impact Assessments are:

-Landscape and Visual Assessment

Impacts would be confined to users of the A543 road and areas to the north east and north west, where there would be cumulative impacts associated with other existing and proposed windfarms, impacts on designated areas (AONB, Berwyns and Snowdonia) would be minor and not cause unacceptable harm; the turbines would be visible from Offas Dyke National Trail, but in combination with other wind farms. There would be temporary visual impact from tree clearance. Any wind farm in the UK will have some significant effects, but it should be noted the site is within a dedicated wind farm zone identified by WAG as being suitable for wind farm construction.

- Nature Conservation

The site is covered with coniferous trees, mainly sitka spruce (*picea sitchensis*), with little conservation value. The disused quarries and rides have small areas of health vegetation. There are no international, national, or locally designated ecological sites, nor any SSSI's within the site Mynydd Hiraethog SSSI lies to the north and south, and is designated for its heather. Bird surveys reveal the site supports few species and no breeding birds. No adverse impacts are anticipated on Black Grouse, which are recorded to the south west of the site (i.e. outside), and there is habitat enhancement proposed in conjunction with RSPB.

Bat feeding habitats were recorded along rides within the plantations but no community or foraging areas along plantation edges, and no bat roosts were present.

The impact on nature conservation interests is not considered likely to be detrimental.

- Cultural Heritage

There are sites of archaeological interest within the development area, associated mainly with the disused slate quarries, and two Bronze Age barrows (Scheduled Ancient Monuments). The site is within the Denbigh Moors Landscape of Historic Interest. Specific mitigation is proposed to address impacts. No direct impacts are likely on archaeological assets.

Impact on the historic landscape setting would be temporary, for the life of the windfarm.

- Hydrology

No impacts are identified on nearby reservoirs, nor on the adjacent peat deposits within the nearby SSSI. Mitigation measures are proposed at construction phase to minimise sediment transport and surface water run off.

- Noise and Vibration

Predicted operational wind turbine noise will meet standard noise criteria standards, resulting in no significant adverse impacts to neighbouring properties.

- Human Environment

Employment would be generated during construction and operation phases. There would be no significant adverse impacts on tourism, or recreational interests (non commercial aviation, public highways, bridleways, footpaths and open access land). Impacts associated with wind farm development have already been experienced from the Tir Mostyn scheme. Shadow flicker is not likely from the development. A Community Fund will be established, based on a payment per MW installed, per annum. Overall, impacts on the human environment are not likely to be significant, and a number of potential positive benefits have been identified.

- Electromagnetic effects

The assessment concludes there is not likely to be any interference on local communications, operations, transmissions, or television signals as a result of the location and size of the wind farm, nor any adverse health impacts.

ii) **The Volume 1 – Environmental Statement Main report** is split into 13 sections containing all the environmental assessments undertaken.

iii) **The Volume 2 – Environmental Statement Figures** report includes the key maps/plans, showing the site location, layout, access routes, and details of turbines and the anemometer mast, tracks and the switchroom. There are a number of plans showing Zones of Visual Impact, photomontages and wireframe representations of the development from 22 viewpoints, and information relating to designations and noise measurement locations.

iv) **The Volume 3 – Appendices** includes details of the scoping report, and information on the construction programme, noise monitoring, shadow flicker and electromagnetic interference.

Members will appreciate that it is normal practice in the course of progressing major applications of this nature, for officers to conduct ‘without prejudice’ dialogue with applicants and their agents, to clarify key elements of proposals, and to discuss the scope of potential mitigation in relation to a range of land use impacts, in terms of possible planning conditions and Section 106 legal agreements. The relevant issues are outlined within the different headings of the ‘Main Planning Considerations’ section of the report. It has been made clear to the applicants that the engagement in dialogue does not signify an indication an officers’ part on the likely recommendation on the application at the end of the process of evaluating the proposals.

There are a number of detailed responses to the application, summarised in the Consultations and Publicity sections of the report. Additionally, an independent evaluation of the Environmental Statement has been undertaken for the County Council by the Institute for Environmental Management and Assessment, and the Noise Appraisal in the Environmental Statement has been reviewed by an independent acoustics company (New Acoustics) in conjunction with the Public Protection officers. The site has been visited by the case officer in varying weather conditions, at different times of the day and year.

RELEVANT PLANNING HISTORY:

12. None.

PLANNING POLICIES AND GUIDANCE

13. There is a complex range of policies and guidance to which the Authority is obliged to have regard in weighing the merits of this application. This section of the report outlines this context in some detail, as it is critical to the determination of the proposals.

14. Policy and guidance relevant to windfarm proposals at the time of considering this particular scheme falls into a basic hierarchy:

The Denbighshire Unitary Development Plan (UDP)

The starting point in relation to all planning applications is the UDP. Section 38(6)

of the Planning and Compulsory Purchase Act 2004 sets out the requirement that planning applications are to be determined in accordance with the relevant Development Plan, unless material considerations indicate otherwise.

The main policies of relevance in the UDP are two relating to renewable energy:

- Policy MEW 8 - Renewable energy
- Policy MEW 10 - Wind power

Other policies with considerations which may be applicable are:-

- Policy STRAT 1 - General
- Policy STRAT 2 - Energy
- Policy STRAT 5 - Design
- Policy STRAT 6 - Location
- Policy STRAT 7 - Environment
- Policy GEN 6 - General development control requirements
- Policy GEN 8 - Planning Obligations
- Policy GEN 9 - Environmental Assessment/Statement
- Policy ENV 1 - Protection of the Natural Environment
- Policy ENV 2 - Development affecting the AONB/AOB
- Policy ENV 6 - Species Protection
- Policy ENP 1 - Pollution
- Policy ENP 4 - Impact of new development on traffic flows
- Policy TRA 8 - Transport requirements in Major developments
- Policy TRA 10 - Public rights of way
- Policy CON 10 - Scheduled Ancient Monuments
- Policy CON 11 - Areas of Archaeological Importance

The relevance of specific UDP policies is detailed in the evaluation of the main planning considerations which follows, and the key policies (MEW 8 and 10) are included as Appendix 4 to the report.

Other material considerations

As outlined, the basic principles of current legislation are that where a proposal is in accordance with the policies of the UDP, planning permission should be granted, unless there are material planning considerations which indicate a contrary view should be taken. Where compliance with the UDP policies is not clear cut, due regard therefore has to be given to other matters which are material to the consideration of the merits of a proposal in determining whether permission should be granted.

'Other material considerations' are considered to include, broadly in terms of the significance of weight to be attached:

Planning Policy Wales: March 2002

This provides a range of general advice for local planning authorities on:

- Sustainable development (Section 2 outlines the principles, and the role of the planning system in encouraging the use of renewable resources and of sustainability).
- Conservation of Wildlife and Habitats (Section 5 – species protection).
- Tourism (Section 11 – Encouraging Sustainable tourism)
- Sustainable Energy (Section 12 – general principles).

Section 12 has been superseded by Ministerial Interim Planning Statement (MIPPS) 01/2005, which accompanied TAN 8 – Planning for Renewable Energy.

This sets out the basic principles established at Kyoto, UK government targets for reductions in CO² emissions, the specific role WAG proposes to play in delivering an energy programme contributing to reducing emissions, targets of electricity production by 2010 and 2020, targets for renewables capacity from strategic onshore wind energy, and identification of Strategic Search Areas for large scale windfarm developments. (See also the following section).

Planning Guidance Wales:

Technical Advice Note Wales 8 – Planning for Renewable Energy, July 2005 (TAN 8) and Ministerial Interim Planning Statement 1/2005 (MIPPS)

TAN 8 and the MIPPS update and supplement Planning Policy Wales 2002, set in the context of UK and national energy policies. As the most up to date Welsh Assembly Guidance, these inevitably carry significant weight as material considerations on renewable energy developments, evidenced in the recent Wern Ddu windfarm appeal decision.

TAN 8 and the MIPPS confirmed a fundamental change in guidance in Wales on the derivation of electricity from renewable energy sources, and introduced the principle of spatial planning for the delivery of WAG's clean energy policy.

The key points are:-

- i) WAG has set a renewable energy generation benchmark of 4 TWh (4 terrawatt hours, or 4,000 Giggawatt hours) from all renewable sources by 2010, and a further target of 7TWh by 2020. These are 'non-negotiable' targets.
- ii) The scenario of renewable energy production for 2010 is:-
 - a) Onshore large scale wind – 800MW
 - b) Other technologies (including offshore wind) – 200 MW
- iii) The 800MW target for onshore generation is set as a minimum.
- iv) The identification of seven 'Strategic Search Areas' (SSA's) which are considered suitable for 'large scale' windfarm developments (Areas are referred to as A-G). SSA 'A' is referred to as the Clocaenog Forest.
- v) Large scale windfarms are referred to as those in excess of 25MW capacity.
- vi) The extent of the Clocaenog Forest SSA 'A' is shown at 'broadbrush' scale on maps within TAN 8. The SSA falls partly within Denbighshire and partly within Conwy. (See Appendix 5).
- vii) 'Indicative capacities' are set for each SSA. The Clocaenog Forest SSA has a 140MW capacity for 2010.
- viii) Outside the SSA's, local planning authorities should encourage proposals for smaller renewable energy developments.
- ix) Local planning authorities are encouraged to undertake 'local refinement' within each SSA to guide and optimise developments.
- x) In relation to the incidence of noise from windfarms, TAN 8 refers to the framework for the measurement of turbine noise in the ETSU-R-97 report,

which gives indicative noise levels calculated to offer a reasonable degree of protection to wind farm neighbours. It states the recommendations of ETSU-R-97 'can be regarded as relevant guidance on good practice'.

- xi) Factually, the Gorsedd Bran site lies wholly within the Clocaenog Forest SSA 'A' as annotated on the TAN 8 plan.

Other Technical Advice Notes

TAN 5 – Nature Conservation and Planning (1996).

TAN 5 contains general advice on the handling of proposals which may affect protected species, and areas with special designations (Sites of Special Scientific Interest, Special Areas of Conservation etc).

TAN 6 – Agricultural & Rural Development (2000).

TAN 6 outlines considerations relevant to development for agricultural purposes, setting basic requirements to take into account the quality of agricultural land and the impact of development on agricultural uses.

TAN 11 – Noise (1997)

TAN 11 relates to the assessment of noise in relation to development proposals. The general guidance is that planning authorities should ensure noise generating development does not cause an unacceptable degree of disturbance; but acknowledges there may be circumstances where it may be acceptable to allow noise generating activities near to noise sensitive development. It recommends the use of planning conditions or obligations to safeguard local amenity, and mitigation measures such as adequate separation distances between noise sources and noise sensitive buildings or areas.

Specifically with regard to windfarm developments, Annex B of TAN 11 refers to advice in TAN 8 (1996), which mentions the use of ETSU-R-97 as guidance on noise assessment. TAN 8 2005 repeats this advice (see note on TAN 8 2005).

TAN 12 – Design (2002)

TAN 12 contains advice and guidance to ensure development is of a high design quality, promoting good design to assist environmental sustainability, economic growth, etc, and encouraging the use of design to mitigate effects of development.

TAN 15 – Development and Flood Risk (2004)

TAN 15 sets out to avoid development in areas where the consequences of flooding will be unacceptable, and seeks to guide new development away from areas at high risk of flooding. In identified Flood Risk areas, planning authorities have to be satisfied that development is justified, and that the consequences of flooding are acceptable. (The application site is not in a Flood Risk area).

TAN 18 – Transport (2007)

TAN 18 outlines a range of considerations to be given to schemes where transport issues are a relevant factor, and how land use planning and transport have a key role to play in supporting the sustainable development approach of the Assembly. So far as the TAN is relevant to applications for wind turbine development, due consideration is required for the highway implications of proposals and the use of conditions or legal agreements to mitigate impacts.

Central Government policy

WAG policy and guidance on the approach to renewable energy production emanate from UK national government. The basis of UK government policy is to address the phenomenon of climate change and to seek the reduction of environmentally damaging gasses, topically referred to as 'greenhouse gasses'.

Briefly, by way of background, there is a long history of scientific reports, United Nations conventions, and efforts made to seek commitments for action by nation states, since at least the 1980's. The first major step forward in securing commitments at international level was the signing of the Kyoto protocol in 1997, in which industrialised countries accepted binding targets to limit/reduce greenhouse gas emissions. The Kyoto protocol was finally ratified by Russia in 2005 when it became legally binding. The European Union (EU) has acted on the Kyoto protocol and sought to identify contributions from individual member states; the UK's contribution being a 12.5% reduction in greenhouse gasses below 1990 levels, by 2008/2012. Recent developments include an EU commitment in March 2007 to cut CO² emissions by 20% of 1990 levels by 2020, and to boost renewable fuel use by 20% to 2020, all subject to ratification and proportional targets for individual countries.

UK government policy has developed out of commitment to International/European Climate Change agreement. Domestic targets for reduced CO² emissions have been set beyond the timescale covered by Kyoto, at 20% of 1990 levels by 2010. The UK Climate Change Programme launched in 2000 outlines how these policies are to be achieved, and identifies renewable energy sources as an essential element. Successive energy White Papers update longer term aspirations to cut CO² emissions. There has been a significant statement in December 2007 from the Secretary of State for Business, Enterprise, and Regulatory Reform, that some 7,000 turbines will be built offshore to meet EU targets on renewable energy.

Further weight has been added recently to the case for action to control emissions, through the publication of the Stern Review in October 2006, which dealt with the economic impacts of climate change rather than the human/scientific effects, and urged strong collective action to avoid the worst impacts of such changes.

This history reflects a strong government commitment to addressing climate change and CO² emissions, and to the development of energy wherever they may be economically and environmentally acceptable. WAG have translated this commitment through TAN 8 and the MIPPS in 2005.

Denbighshire/County Interim Planning Guidance – Onshore Wind Farms (IPG)

In response to TAN 8 and the MIPPS, Denbighshire and Conwy have collaborated in the development of Interim Planning Guidance for Onshore Windfarm developments, to give effect to a 'local refinement' of the SSA 'A' boundary, and to set out local policy (in the context of the TAN). The IPG route has been taken as the timescale for progression of the Local Development Plan is unlikely to result in an approved development plan document with revised policies and plans relating to the windfarm SSA, until 2010.

The 'refinement' exercise on the extent of the SSA was undertaken by Arup, who were involved with WAG in the development of TAN 8, and have been commissioned by a number of local planning authorities nationwide in similar work.

The IPG was adopted at Full Council in February 2007, for use in the consideration of applications, and as a guide to developers and the public. The 'refined' SSA, referred to as the Clocaenog Wind Farm Zone (CWFZ), reduced the physical extent of the 'broadbrush' zone in TAN 8 (excluding, for example, Welsh Water/Dwr Cymru land, which it was understood would not be made available for turbine development), but was still considered capable of accommodating

development in excess of the 140MW indicative target in TAN 8 and the MIPPS. The map in Appendix 6 to this report shows the extent of the Clocaenog Wind Farm Zone.

The IPG reinforces the presumption in favour of windfarm development in TAN 8, and specifically large scale (25MW +) windfarm developments within the CWFZ, subject to normal 'local impact' planning considerations. The Gorsedd Bran site forming the subject of this application falls within the CWFZ.

Aspects of the 'refinement' methodology and related assumptions in deriving the capacity figures for the CWFZ were challenged in the course of the public inquiry into the Wern Ddu Gwyddelwern windfarm proposals in 2007. The appeal Inspector expressed his own reservations at the assumed capacity of the refined zone and its ability to deliver the WAG target, and attached very little weight to the IPG in the determination of the appeals. As an up to date statement from the planning Inspectorate on the status of the IPG, this suggests only limited weight can be given to its contents in the determination of current proposals.

The Denbighshire County Council Landmap study is a comprehensive Landscape Area Character Assessment undertaken by Denbighshire County Council with assistance from the CCW. It provides a useful appraisal of the quality of the landscape and a baseline against which the impact of wind turbine proposals can be assessed.

The Wales Spatial Plan is a Welsh Assembly Government strategy document approved in late 2004, setting out broad principles through which sustainable development may be achieved in the country. The plan looks to promote the development of renewable energy, but does not go into the details of locational criteria dealt with in draft TAN 8.

MAIN PLANNING CONSIDERATIONS:

15. A major application of this nature raises a range of planning considerations, from general principles, to the particular localised impact of the development. This section attempts to review the main issues considered of relevance to deliberations on the merits of the proposals, hopefully to give members sufficient information to determine what weight to attach to considerations, in order to reach a balanced conclusion. There is a short summary and conclusion in paragraphs 21-27.
16. Members will appreciate that there is considerable technical content and a high volume of responses generated on wind turbine applications. Many quite understandable concerns are expressed over detailed effects such as visual impact, noise, health and safety, water supply, wildlife and archaeological impact. It is clear from experiences to date in Denbighshire, and from decisions elsewhere, that a number of detailed 'technical' concerns are capable of being addressed or resolved by using planning conditions or legal agreements. As a principle therefore, members need to apply the normal tests in assessing particular land use planning issues and whether constraints or obstacles can be suitably mitigated or resolved through conditions or obligations, the latter forming the basis of Policy GEN 8 of the Denbighshire Unitary Development Plan.
17. There are also a number of general points raised which it is respectfully suggested need to be placed into appropriate context in the weighing up of the application.

- i) The merits of National Government policy and Welsh Assembly Government Policy in relation to renewable energy production, including the case for alternative forms of generating electricity and the concentration of wind turbine sites in Wales are not matters for challenge in the determination of an individual planning application for a wind turbine development.
 - ii) The economic and technical case for wind turbine projects remains a matter for National Government and Welsh Assembly Government.
 - iii) The contribution which the Gorsedd Bran development itself could make to the TAN 8 target for electricity generation in the Clocaenog SSA 'A' is in the order of 28%, and is a tangible benefit which has to be placed in to the balance against other factors relevant to the decision.
 - iv) The key considerations are likely to be those specific to the land use planning impacts of the proposals, hence;
 - Fear of precedence, in itself is not sufficient to justify a refusal of permission.
 - There is no right to maintain unchanged a private right to view over third party land.
 - Protection of private property values can be accorded little weight, as the planning system is based on the exercise of control in the public interest, through protection of the amenities and rights of individuals to enjoy their property and surroundings.
 - v) Developer claims over the precise contribution the windfarm would make to electricity production and CO² savings may be open to challenge, but the issue remains that the development is consistent with the principle of generating electricity by renewable means to meet national policy objectives. Refusal of permission could not be justified on the basis that estimates of electricity production and CO² savings for an individual windfarm may be 'optimistic'.
 - vi) The objectivity or otherwise of the Environmental Statement should not assume great significance in the consideration of the merits of the application. Its contents have been reviewed systematically by the IMEA, and have been assessed in detail by the range of consultees referred to in the report, who have reached their own conclusions on the contents. The contents of the Environmental Statement are considered adequate as a basis for assessing the impacts of the development and for drawing conclusions by the Local Planning Authority, consultees and interested individuals.
 - vii) Public opinion may be a material consideration, and clearly has to be taken into account by the Authority. Members will however appreciate that it is not the number of persons expressing support or objection which is critical, but the relevance of the issues on which their representations are based.
18. There has been extensive consultation with interested bodies, the local community and private individuals on the application. To some, this will be inadequate given the issues involved, but it is considered that within the confines of the system within which the Authority is obliged to operate, there has been adequate opportunity for all sides to make representation on the application, and there is sufficient information on which to make an objective judgement and decision.
19. In this particular case, the main planning considerations are considered to be:-
- i) The principle of developing renewable energy sources.
 - ii) Landscape and visual impact.

- iii) Amenity Impact:-
 - a) Noise
 - b) Visual impact
 - c) Shadow flicker
 - d) Electromagnetic interference
 - e) Health and safety
- iv) Nature Conservation.
- v) Archaeology.
- vi) Hydrology.
- vii) Impact on local economy.
- viii) Highways impact.

20. In relation to the main considerations:

i) The principle of developing renewable energy sources

There is clear guidance at International, National Government and Welsh Assembly Government level encouraging the development of suitable means of generating electricity through renewable sources, to help reduce greenhouse gas emissions and to address issues of climate change. In support of this policy, WAG have produced TAN 8 and the MIPPS in 2005, and set specific targets for the generation of electricity by onshore windfarms for 2010. TAN 8 establishes the principle of Strategic Search Areas for locating large scale onshore wind turbine developments, and is a significant material consideration on any application for turbine developments in Denbighshire.

Planning policy and guidance/other material considerations

The UDP contains general policies on renewable energy in STRAT 2 and MEW 8 which support the principle of development which captures energy from naturally sustainable sources. MEW 8 offers support as far as this is compatible with other planning policies, but states that development will only be permitted where there is no unacceptable effect on the environmental quality of the locality. The subtext to MEW 8 refers to the Council's commitment to considering the contribution the plan area is able to make in meeting needs on a local, regional and national basis, but emphasises there is no justification for this to be at the expense of other important concerns such as landscape and nature conservation – concluding that “in order to reconcile these different issues, it will therefore be necessary to balance the commitment to encourage renewable energy with the local and national need to conserve the environment and the landscape for its own sake”.

Policy MEW 10 deals specifically with wind power developments, stating these will be permitted subject to assessment against 10 specific tests. These are reviewed against the particular issues to which they are relevant in the following sections.

It is of some relevance to the consideration of the application that the Unitary Development Plan's policies date back to 2002, and are largely 'criteria based' in relation to wind turbine proposals. TAN 8 (2005) introduced a very different approach in Wales to the development of onshore windfarms, in the adoption of a locational approach through concentrating large scale windfarms in a number of Strategic Search Areas, with policies relating to them. The County Council reacted quickly to the fact that TAN 8 and the MIPPS are significant statements of policy capable of overriding the now 'outdated' policies of the UDP, and developed the Interim Planning Guidance jointly with Conwy to assist consideration of proposals. The adoption of the

IPG in February 2007 confirms Denbighshire's commitment to the principles of TAN 8 and to the development of large scale windfarms in the Clocaenog Wind Farm Zone, subject always to consideration of localised impact.

Summary

National and local policies set a framework offering clear support for the development of renewable energy. WAG's TAN 8 and the MIPPS in 2005, along with the subsequent Denbighshire – Conwy IPG refine the approach on a locational basis, in the guise of Strategic Search Areas, where large wind farms (25MW+) are to be developed. The Clocaenog Forest is one of the Strategic Search Areas. The Gorsedd Bran site lies within both the TAN 8 'broadbrush' SSA, and the IPG's 'refined' SSA, the Clocaenog Windfarm Zone. The principle of developing a large scale windfarm on the application site is in line with these key strategic documents. National and WAG policy is not up for challenge in relation to individual planning applications.

ii) Landscape and visual impact

Basis of responses

A high proportion of objections received from private individuals express concerns over the potential visual impact of turbines and the effect these would have on the local landscape. Letters refer to the increasing height of turbines, the potential cumulative impact, and to the desecration of the landscape. Suggestions are made that the cumulative impact can not be fully assessed until applications for other schemes in the SSA have been submitted, and details of any connection to the national grid are included.

Planning policy and guidance/other material considerations

There are specific requirements in the Unitary Development Plan policies in relation to the visual and landscape impact of wind turbine developments. MEW 10 (iii) requires that proposals do not unacceptably harm the character and appearance of the landscape, especially in Areas of Outstanding Natural Beauty and Area of Outstanding Beauty, Local Landscape Areas or the Snowdonia National Park. MEW 10 (viii) requires that a proposals do not lead to an unacceptable cumulative visual impact in an area where zones of visibility (with other wind turbine development) overlap, and that particular attention will be paid to the potential proliferation of such developments in any one area. MEW 10 (i) requires details of all ancillary equipment as part of an application. The 'tests' of Policy MEW 10 'detail up' the general requirement that development should only be permitted where there is no unacceptable effect on the environmental quality of the locality.

TAN 8 and the MIPPS are essentially strategic level policy statements and contain limited specific guidance on the consideration of landscape and visual impact in respect of individual planning applications. However, in introducing the concept of SSA's to accommodate large scale windfarm developments, TAN 8 recognises that significant landscape character change will occur in and around those areas, and it establishes the acceptability of the principle of such change. This is reflected in the advice in Annex D of TAN 8, which sets out a methodology for refinement of SSA's by local planning authorities, and states in 8.4:-

"Within (and immediately adjacent) to the SSA's, the implicit objective is to accept landscape change i.e. a significant change in landscape character from wind turbine development".

This is an important statement in the context of how landscape impact is considered in relation to wind turbine development.

Whilst the joint Denbighshire – Conwy IPG relating to Onshore Windfarms was given limited weight by the planning inspector at the Wern Ddu appeals the conclusions of the Arup TAN 8 Annex D study (2005) and the subsequent 'Review of Refinement' Study (2007) are of relevance to the issue of landscape and visual impact. The study and review of refinement included a detailed landscape and visual assessment exercise of the whole SSA and land around it, and subdivided this into spatial areas (zones) of similar landscape/visual characteristics, based on existing landscape assessment studies such as the Denbighshire Landmap. The conclusions of the Arup work was the ranking of these zones within the SSA in terms of their suitability to accommodate turbine development. Of the 10 zones assessed in the review of refinement study, the two which encompass the Gorsedd Bran site were classed as medium/low in terms of landscape character sensitivity, and placed in the first 'rank' of preference for turbine development. This is an important conclusion from a detailed landscape and visual assessment, which has been accepted by the Council as a basis for the refined SSA and the IPG.

Contents of the application

The application contains a detailed landscape and visual assessment which considers the effects on landscape character, visual amenity, and cumulative impacts with other operational, consented sites and sites in the planning system. There are a number of maps and photomontages showing Zones of Theoretical Visibility and visualisations of the development from 22 viewpoints. The assessment recognises that there will be significant landscape and visual effects in the general locality of the site, but states that these are not necessarily adverse, or if adverse, unacceptable. It argues that no proposal to site a windfarm would not result in significant effects, and such development has to be considered against the context of Tir Mostyn, and TAN 8 and its implicit objective to accept landscape change from turbine development. In response to CCW concerns over impact on the Historic Landscape area, Tegni have suggested minor changes to the siting of turbines along the ridgeline, to achieve a more acceptable layout when viewed from locations south west of the Sportsmans Arms.

Summary

In looking at the application first in terms of UDP policy, there is inevitably a degree of conflict with tests (iii) and (viii) of MEW 10 as the erection of 13 turbines of 125 metres height will result in harm to the local landscape, and the Denbigh Moors Landscape of Special Historic Interest, and will have a significant cumulative impact with existing and future windfarms in the SSA. It is difficult to conclude otherwise, albeit that the site is not within a formally designated/protected landscape area.

Critically, in respect of landscape and visual impact, any conflict with planning policy has to be balanced against other material considerations. In this case, there is unquestionably significant weight to be attached to the presumption in TAN 8 that there will be landscape character change within and adjacent to the SSA's, and that the implicit objective is to accept this change from wind turbine development. These key principles of TAN 8 have been accepted by Denbighshire in adopting the revised SSA boundary in the IPG in early 2007, which included the Gorsedd Bran site within the Clocaenog Wind Farm Zone.

Ultimately, whilst acknowledging objections in relation to landscape impact,

the identification by Welsh Assembly Government of the Clocaenog area as a SSA for large scale wind turbine developments and the contents of TAN 8 are strong material considerations. Respectfully, it is suggested that the grant of the Tir Mostyn permission, the issue of subsequent WAG policy and guidance in 2005, and the contents of the Arup refinement study fatally undermine any case to oppose the development on landscape or visual grounds, including the cumulative impact with existing and proposed windfarms in the SSA, and any impact on the Landscape of Special Historic Interest, the AONB and AOB.

In relation to other matters raised, with relevance to landscape and visual impact:

- a) The planning authority can not reasonably withhold permission on grounds that there are no details of the proposed electricity grid connection. This matter has been raised in relation to other applications which have gone to appeal, where Inspectors have attached little or no weight to the absence of such details, and have referred to separate legislative procedures under the Electricity Acts for handling overhead line proposals.
- b) The planning authority could not reasonably delay consideration of the application in order to await receipt of 'future' applications within the SSA, solely to allow further consideration of cumulative landscape/visual impact. Such action would open the authority to non-determination appeals and cost claims for unreasonable behaviour, as there is no certainty over the timing of future applications, and there is a reasonable expectation in the context of the landscape/visual assessment in the submission, the contents of TAN 8 and the IPG/refinement process that the Authority is able to make a judgement on the cumulative impact issues.
- c) Comments over the potential incongruity of turbines of different heights on windfarm sites in this area are noted, but it is not considered this constitutes a reasonable ground for refusal of permission. Factually, the height of turbines on each of the sites would be 75m (Tir Mostyn), 100m (Brenig), and 125m (Gorsedd Bran), but it is likely that a combination of factors would limit the landscape and visual impact of these differences. The Gorsedd Bran site is something of a 'outlier' in the North West corner of the SSA, and is physically divorced from Brenig (1km) and Tir Mostyn (2km), which would reduce the impact of turbine height differences between machines on this and the other sites. Whilst the Brenig site is located immediately to the West and the South of parts of Tir Mostyn windfarm, the actual difference in turbine heights of 25 metres between machines on these sites is comparatively small, and it is respectfully suggested that having regard to the actual positioning of turbines, and the differences in levels between and across the sites, and the limited number of viewpoints from which turbines from both sites would be visible together and at full height, the landscape and visual impact would not be unacceptable. The Authority has also to recognise that turbine sizes have increased since the grant of the Tir Mostyn permission, with the current generation of machines being between 100 and 130 metres. In this context, it is not considered that the Authority has any case to require the use of smaller turbines on the Brenig or Gorsedd Bran sites or to oppose the height of turbines

as proposed.

- d) Potential additional landscape/visual impact from safety lighting on turbines (for air traffic purposes) does not arise in this instance. TAN 8 Annex C (2.38) advises that lights are only required on structures that are over 150 metres high.

iii) **Amenity Impacts**

a) Noise

Basis of responses

Many individual responses, and those of the local Community Councils outline specific concerns over the potential noise implications of this windfarm development. These point to the already obtrusive impact of the existing Tir Mostyn windfarm, express fears that more, and larger turbines will lead to an increased incidence of noise and disturbance, and refer to the possibility of cumulative noise impact of windfarms sited in close proximity to one another. Questions are raised over the methodology for the assessment of noise (ETSU-R-97), how acceptable noise controls can be set and monitored, and whether the issue of Infrasound and Low Frequency Noise has been properly assessed.

Planning policy and guidance/other material considerations

UDP policy MEW 8 is the 'general' policy relating to renewable energy and states such development will be supported in principle as far as is compatible with other plan policies; and that development will only be permitted where there is no unacceptable effect on the environmental quality of the locality. MEW 10 states wind farms will be permitted, provided proposals meet specific tests. Test iv) requires that the proposal does not lead to unacceptable noise levels to residential amenity in the surrounding area.

The IPG deals primarily with locational and policy issues in the Clocaenog Wind Farm Zone, and indicates turbines should be a minimum of 500 metres from a residential dwelling. Noise is listed as one of a range of key considerations on any application.

Guidance on noise in TAN 8 is contained in paras. 2.14-2.18. This refers to the recommendations in ETSU-R-97 "The Assessment and Rating of Noise from Wind Farms" as relevant guidance on good practice for measurement of windfarm noise and "gives indicative noise levels calculated to offer a reasonable degree of protection to windfarm neighbours". In granting the recent Wern Ddu permissions, the Planning Inspector framed the relevant noise conditions on the methodology and assessment in ETSU-R-97, and this remains the 'standard' referred to by Inspectors in appeals nationally in relation to assessment of noise impacts of windfarm development. However, it is to be noted that some ETSU conditions are currently being tested by Judicial Review in England, and many developers and Councils are agreeing alternative and more robust conditions of the form proposed here by the Council's consultant, following critical consideration of matters such as cumulative impact.

Planning Guidance Wales: Planning Policy and TAN 11, Noise have limited up to date relevance to the detailed assessment of noise from windfarms. On the separate issue of low frequency noise, TAN 8 states

there is no evidence that ground transmitted low frequency noise from wind turbines is at a sufficient level to be harmful to human health (2.17). It refers to a separate ETSU study on vibration from a modern windfarm, where vibration levels 100 metres from the nearest turbine were a factor of 10 or less than those recommended for human exposure in critical buildings, and tones above 3.0Hz were found to attenuate rapidly with distance, higher frequencies at a progressively increasing rate (2.18).

Relevant contents of application

The Environmental Statement contains a detailed noise impact assessment carried out by the Hayes MacKenzie Partnership, based in Machynlleth. This includes a baseline noise survey at 4 properties in the locality, agreed with the Council's Public Protection Officers, to determine existing background noise levels, and an assessment of potential 'operational' stage impacts, including construction noise. The survey and noise limits apply the ETSU guidance, in line with advice in TAN 8. Predicted noise levels are stated to meet noise criteria proposed in ETSU-R-97 for night time and amenity operation, for all dwellings neighbouring the proposed development; and internal noise levels will be below recognised sleep disturbance levels at all surrounding properties.

Summary

As detailed earlier in the report, the County Council has followed the same procedure to that adopted in relation to other windfarm applications received since 1999, in commissioning an independent acoustics consultant to undertake an appraisal of the submitted noise assessment.

The Council's Consultant has engaged in detailed dialogue with the developer's consultants and Public Protection Officers, to investigate key issues, including how the matter of cumulative noise impact should be addressed. The conclusions of the Consultant are outlined in detail at the end of the 'Consultation Responses' section of the report. Ultimately, it is suggested that enforceable planning conditions can be imposed to take account of cumulative noise, with suitable arrangements for future monitoring. The conditions are considered to be consistent with advice in ETSU-R-97, but as drafted are more robust alternatives, to cover cumulative noise impact. Consequently, and with respect to concerns expressed, it is not considered there is any 'technical' basis for opposing the development on noise grounds.

In relation to the question of low frequency noise, the Council's consultant concurs with the contents of TAN 8 in that there is insufficient evidence to conclude that the levels of such noise are harmful to human health.

b) Visual Amenity

Basis of responses

There are no representations expressing objection over the direct residential amenity effects of wind turbines on individual properties. Visual amenity impacts are normally taken to be the visual effects of turbines sited close to individual properties, on the day to day enjoyment by residents of the environment in and around their dwellings, and in the course of using roads and footpaths. Such impacts arise from the potentially intrusive physical presence of the turbines, including disturbance from the movement of blades on the quality of the experience.

Planning policy and guidance/other material considerations

UDP Policy GEN 6 test (v) requires that proposals do not unacceptably affect the amenity of local residents.

Relevant contents of the application

The Environmental Statement contains an assessment of the effects of the proposals on nearby settlements, farmsteads and individual properties. It accepts that a limited number of residential receptors to the north east would experience moderate to major visual effects when clear views are available towards the development, but generally views of the development from residential property would be seen in the context of the existing Tir Mostyn windfarm, may be screened or filtered by intervening landform or vegetation, hence reducing the magnitude of change.

Summary

The majority of residential properties closest to the Gorsedd Bran site are located to the north and north east. Cwm y Rheinwedd at 800 metres is the closest to any turbine. At this distance, it is considered unlikely that the impact on residential amenity would be so significant that refusal of permission could be justified. Whilst caution is necessary in comparing situations, it is of relevance that the Wern Ddu appeal inspector concluded the impact of 2 turbines within 500 metres of a private dwelling would not be unacceptably overbearing or intrusive.

c) Shadow Flicker

Basis of responses

The matter of shadow flicker is raised as a specific concern by one objector.

Planning policy and guidance/other material considerations

UDP policy MEW 10 (v) requires that there is no unacceptable risk or nuisance to the public arising from wind turbines, such as shadow flicker. TAN 8 explains the phenomenon of shadow flicker in Annex C, 2.32, outlining that it can occur where the sun passes behind the rotors of a turbine and casts a shadow over neighbouring property, which flicks on and off as the blades rotate. TAN 8 obliges developers to provide an analysis of the potential for shadow flicker impacting on nearby property.

Relevant contents of the application

The Environmental Statement contains an explanation of the circumstances in which shadow flicker may occur, which is only inside buildings where the flicker appears through a narrow window opening, and only at buildings located within 130 degrees either side to the north of a turbine. A computer programme has been run to assess the potential for shadow flicker at 7 locations, and this concludes that none are likely to be affected.

Summary

On the basis of the information available, the potential incidence of shadow flicker appears to be limited in this case. It would nonetheless be appropriate to take a precautionary stance in respect and to suggest, if a permission were to be granted, the inclusion of a suitably worded condition to oblige suitable investigation and action should the phenomenon occur at property in the area.

d) Electromagnetic Interference

Basis of responses

One individual expresses concerns over the potential for electromagnetic interference from the turbines. This would be from physical interference (the scattering of signals resulting in 'ghosting' on TV screens) or electrical interference (signals generated within turbines, impacting on telecommunications equipment). A range of consultees have forwarded specific comment on the potential impacts on their networks/systems.

Planning policy and guidance/other material considerations

UDP policy MEW 10 (v) requires that there is no unacceptable risk or nuisance to the public from wind turbines, including radio interference.

Relevant contents of the application

The Environmental Statement refers to consultations undertaken prior to submission, with telecommunication and broadcasting network operators, and concludes from responses that it is unlikely there would be any interference to operations or transmissions. With regard to television signals in the area, the Statement notes the BBC response that there are no homes likely to be affected by the proposal that do not have an alternative broadcasting service. The Statement notes some degradation from Tir Mostyn to signal strength from a National Grid Wireless Remote Broadcast Link (RBL) to a TV relay station at Cerrigydrudion, but suggests the proposed development is unlikely to impact on this link. It refers to the programmed switch in Wales to Digital TV in 2009 and that research indicates digital links are unaffected by wind turbines. In the event that there is a delay in the Digital TV switchover, the applicants accept they would need to commit to a scheme with National Grid Wireless to maintain acceptable signal strength.

Summary

On the basis of consultation responses, there are no anticipated adverse impacts on telecommunication networks and systems. It is, however, common practice in relation to turbine applications to address any possibility for interference with TV, radio or other systems by including conditions obliging surveys of existing reception and the submission and implementation of specific schemes for mitigation of impact, should problems arise.

e) Health and Safety

Basis of responses

Concerns are expressed over potential health and safety implications of turbine development. These include the possibility of interference to air navigation systems, dangers to low flying aircraft, and potential dangers to users of footpaths and highways from blade failure, ice throw, lightning strikes, and structural failure of turbines and blades.

Planning policy and guidance/other material considerations

UDP policy MEW 19 (v) and GEN 6 (v) are relevant to the issue of health and safety impacts, requiring that no unacceptable risk or nuisance arises to the public from developments. TAN 8 Annex C outlines the need to protect aviation interests and to consult the relevant air traffic bodies and in relation to safety issues comments that properly designed, erected and maintained turbines are a safe technology, and that minimum distances from occupied buildings should be calculated to ensure safety requirements.

Relevant contents of the application

Issues relating to air safeguarding are referred to in the Environmental Statement, which notes pre-application dialogue with the relevant airspace bodies. In relation to public safety, the submission refers to inbuilt vibration sensors on turbines which detect any blade imbalance, and inhibit operation until any ice build up has melted. It also points out that properly designed, erected and maintained turbines are considered safe, which is advice contained in TAN 8.

Summary

It is apparent from consultation responses that there are no air safeguarding objections to the proposals. Safety devices are built into modern turbines to deal with ice build up and lightening strikes, by way of vibration sensors to detect imbalances caused by icing on blades (where operation would be automatically inhibited), and lightening receptors on blades which discharge electricity to the rotor hub, the shaft, the main frame, and to earth by way of carbon brushes.

With respect to concerns over the structural stability and safety of turbine towers and blades, there is no requirement on applicants or the County Council to undertake specific risk assessments to inform the decision making process. It is understood that modern turbines are subject to a Certification procedure in accordance with European standards, and have to be installed, operated, and maintained in strict accordance with manufacturers' recommendations. As is the case with any item of machinery, a possibility of failure or breakdown will always exist, but the consequent risk (if any) to a member of the public will be relative to the actual presence of the public in the vicinity of a turbine. Consequently, the inherent risk is considered to be low, as it is unlikely that members of the public would be present in the upland areas where windfarms are located, in the extremes of weather that are prone to bring about failure of major turbine components. To officers' knowledge there are no recorded instances of injury to members of the public from operational windfarms in the United Kingdom.

iv) Nature Conservation

Basis of responses

A number of individual objectors outline concerns over the loss of trees, disturbance to peat beds, the adjacent SSSI, and impacts on wildlife habitat, specifically populations of bat, and other species like red squirrel.

Planning policy and guidance/other material considerations

The requirement to ensure there is no unacceptable impact on wildlife/nature conservation is outlined in policies STRAT 7, GEN 6, ENV 1, ENV 6 and MEW 10(x) of the Unitary Development Plan. TAN 5 obliges due consideration of biodiversity issues. TAN 8 Annex C refers to TAN 5 and identifies the need for proper consultation with CCW and RSPB to establish potential impact, in particular on the migration paths of birds and bats from moving blades.

Relevant contents of the application

The Environmental Statement details survey work undertaken to establish the presence and potential impact on birds and other mammals, and habitat and vegetation surveys. The conclusions are that there were no mammals other than bats detected at the site, which is almost entirely covered in sitka spruce. Bat feeding habitat was noted along existing

forestry rides. The only reptiles/amphibians recorded were Common Frogs. There is no impact anticipated on the Mynydd Hiraethog SSSI. Habitat restoration is expected to increase the area of heath vegetation and lead to significant additional benefit to nature conservation at the site, encouraging nationally scarce species there.

Summary

The CCW and RSPB have responded in detail to the proposals and have been in dialogue with the applicant's advisors in relation to specific issues such as impacts on the adjacent SSSI. The conclusion of this exchange has enabled CCW to withdraw their original 'holding' objection, and RSPB to agree to proposals for habitat management.

v) **Archaeology**

Basis of responses

There are a small number of representations expressing concern over the potential for damage to archaeological interests, including ancient monuments and tumuli.

Planning policy and guidance/other material considerations

UDP policy MEW 10 (ii) seeks to ensure there is no unacceptable harm to areas or features of archaeological importance. TAN 8 Annex C refers to advice in Welsh Office Circular 60/96 Archaeology and Planning, and requires that care is taken to ensure relevant procedural steps are followed in the preparation, consideration of applications and during/after construction.

Relevant contents of the application

The Environmental Statement outlines the contents and conclusions of an archaeological impact assessment of the site. This identified 14 sites of Archaeological significance and 2 Scheduled Ancient Monuments within the application site. It concludes that most of the direct impacts are assessed as being of minor or no significance, with 4 having moderate impact. It acknowledges that there will be an indirect impact on the historic landscape setting of the area for the duration of the windfarm operation, but this has to be balanced against the proposed mitigation work, and the removal of trees to improve the setting of historical features.

Summary

There are no objections to the proposals from the Clwyd Powys Archaeological Trust. Any consent would need to include the mitigation measures outlined in the Environmental Statement.

vi) **Hydrology/Hydrogeology/Geology**

Basis of responses

There are general comments made in representations over the potential impact on water resources, including concerns over development affecting the quality of private water supplies, and the loss of trees resulting in additional surface water run off and contributing to the increased risk of flooding elsewhere, the latter raised by Environment Agency Wales and the IEMA.

Planning policy and guidance/other material considerations

The relevant Unitary Development Plan policies are GEN 6 (x) and MEW (ix) which require that proposals do not have an unacceptable effect on

amenity, groundwaters or private water supplies.

Relevant contents of the application

The Environmental Statement contains a detailed appraisal of potential impacts. In relation to the hydrological regime, it acknowledges the main impact will be from increased sediment transport from excavations, soil storage and excavations, and potentially greater surface water run off from surfaces with lower permeability (i.e. areas to be cleared of trees). Mitigation measures are proposed to protect watercourses, and the nearby reservoirs, including silt traps. In relation to impact on the hydrogeology of peat within the SSSI, the proposal is to incorporate cross drains to allow flows to continue down gradients, to address concerns over increased run off.

Summary

The main technical consultees in respect of water/drainage issues are the Environment Agency Wales, and the Council's Scientific Services Officer. During the course of the application, the Environment Agency requested further information including evaluation of the potential for additional surface water run off following tree clearance, and any flooding implications. The Agency have subsequently confirmed they have no objections to the proposals, subject to the imposition of a range of conditions to mitigate impacts, including details of such measures at construction stage.

The Scientific Services Officer has no objections in relation to water supply issues, but it would be necessary to include controls to ensure development does not affect the quality of supply to properties served by local streams.

vii) Impact on Local Economy

Basis of responses

Impact on the local economy is mentioned by a number of objectors as a concern. This is primarily in respect of the effect which individuals believe turbine development would have on the attractiveness of the area for tourists, in particular around the Brenig Lake and surrounding countryside. A number of letters comment that the development would have limited local employment benefits beyond the landowners and developers.

Planning policy and guidance/other material considerations

There is limited direct policy guidance on this issue. Policy MEW 10 (viii) of the Unitary Development Plan requires that proposals do not cause unacceptable harm to the enjoyment of the landscape for recreational and tourism purposes. There is general encouragement in other policies of the UDP for proposals which contribute to, and diversify the rural economy, subject to normal environmental safeguards.

Relevant contents of the application

In commenting on the socio-economic effects of the proposed development, the Environmental Statement notes that there would be opportunities and benefits for local businesses during the constructional, operational, and decommissioning phases. In relation to tourism, the Statement concludes there would be no negative impact. Reference is made to community engagement and the establishment of a community fund in connection with the development.

Summary

In viewing the range of issues relevant to impact on the local economy, it is difficult to conclude there is evidence to suggest the potential benefits or disbenefits clearly outweigh one another. There is a direct benefit to affected landowners, and potential benefits from the award of construction contracts to local companies, but no way of guaranteeing the latter would occur. Impacts on tourism are impossible to determine with certainty, as public opinion surveys suggest varying reaction to the presence of turbines. The County Council itself would not benefit directly from the payment of business rates. The developer's offer to set up a Community Fund package, involving payment of a specified amount of money per megawatt generated per annum, into a fund administered by a Trust comprising representatives of agreed local Community Councils and relevant interested groups/parties, should not be accorded any weight in the determination of the application as this form of 'gain' is not necessary for the development to proceed. The mechanism for delivery of a Community Fund package could be via a legal agreement if a permission was to be granted.

viii) Highways Impact

Basis of responses

There are concerns expressed over potential damage to highways at construction stage, having regard to the experience of the Tir Mostyn development, and the IEMA refer to the need for adequate traffic/transportation details.

Planning policy and guidance/other material considerations

Policies GEN 6 (viii) and MEW 10 (vi) of the Unitary Development Plan require that proposals should not have an unacceptable effect on the local highway network, or give rise to dangers to road users.

Relevant contents of the application

The Environmental Statement provides information on the proposed routing and volume of construction traffic in connection with the development. Traffic transporting the major construction elements is to be directed along the A5, the A543 from Pentre Foelas, and onto the B4501 before accessing the site off minor roads adjacent. The construction period is estimated at 36 weeks. Average HGV numbers to the site would be 5 deliveries a day.

Summary

No objections are raised by the Head of Transportation and Infrastructure to the level of detail submitted with the application, or to the highway impact of the proposals. A degree of inconvenience is likely at construction stage, but this is for a limited period only and the highway network appears adequate to cope with the type and volume of traffic involved. Normal planning conditions can be imposed to control movement and timing of construction works, and there would be a need for separate conditions obliging the recording of the highway condition prior to the commencement of works in conjunction with an obligation to reinstate and make good any damage to any public highway arising from heavy construction traffic.

Other issues

The application has raised a number of issues which do not 'fit' conveniently under the main topic areas adopted in the report. These include:

Impact on property value

There are several individual letters outlining objections over the potential impact of more wind turbine development on property values.

As a general principle, fears over loss of property value should themselves be accorded little or no weight in the determination of planning applications, as the basic premise is that the system does not exist to protect the private interests of one person against the activities of another – and that proposals should be considered in terms of their effect on the amenity and existing use of land and buildings in the “public interest”. The land use planning considerations should therefore centre on the acceptability of a development on the level of amenity enjoyed by residents, rather than matters like simple financial gain or loss.

Community Benefits

Concerns are expressed over the developer's offer to set up a Community Fund in connection with the scheme, and whether this is an appropriate consideration in relation to an application.

There is a clear guidance on 'developer offers' in TAN 8 Annex B. Where development is likely to have a direct implication for the public provision of infrastructure (e.g. off site highway improvements), then matters can be dealt with by planning conditions or through agreement to enter into a legal obligation under Section 106 of the Planning Act to secure agreement to the mechanism for the relevant financial contribution. Other 'gains' offered by developers, which are not necessary for a development to proceed, are not in themselves unlawful, but TAN 8 makes it clear that they must not impact on the decision making process. Consequently, the offer to set up a Community Fund in this instance should play no part in the consideration of the application.

Financial benefits to Denbighshire County Council

Objectors question whether it is appropriate that the County Council is responsible for determining an application where it may be in receipt of an obvious financial 'benefit' from a development, such as business rates income.

Whilst appreciating the point here, the Revenues Section of the County Council have advised that Denbighshire do not receive rating income from developments such as windfarms, as these are included in a Central Rating List compiled and maintained by the central valuation officer, which is deposited and administered by the appropriate Secretary of State.

Loss of CO² absorption through tree removal

A number of objectors question the principle of consenting to development which involves the removal of trees which act as a natural absorbent of CO² gas.

There is no dispute that areas of forestry plantation provide a level of carbon storage, as trees absorb carbon dioxide as they grow. The loss of trees on the site will impact on the specific 'carbon fixing' potential here, but this does need to be balanced against the anticipated CO² saving from

electricity generated from turbines on the site (i.e. offsetting electricity produced by current electricity generating plant in the UK, which mainly comprises fossil fuel generation from coal and gas). It is also relevant to note that the trees here have been planted as a 'commercial' crop, and would have been removed in the near future in any event.

Fear of precedent

It is respectfully suggested that the possibility of the grant of permission setting a precedent for the submission of further wind turbine applications, and pressing the Authority to approve them, is not a defensible ground for refusing permission. The basic principle is that each application has to be assessed on its own particular merits against planning policies and other material considerations, and it is these matters which should determine whether to grant or refuse.

Decommissioning

The application does not contain specific details of 'decommissioning' of the development, i.e. arrangements for how the turbines are to be removed and the land reinstated at the end of the life of the windfarm. If a permission were to be granted, it would therefore be essential to ensure the submission and approval of relevant details, and to set an appropriate timescale for completion of reinstatement works. This matter was dealt with by way of a planning condition by the Wern Ddu Inspector, and is the preferred route outlined in the 'Onshore Wind Energy Planning Conditions Guidance Note', commissioned by the Renewables Energy Board, and endorsed in 2007 by the Minister of State for Energy as an aid to local planning authorities.

In officers opinion the use of a planning condition is a satisfactory and enforceable option to secure decommissioning, and there is no requirement to pursue a bond through a separate Section 106 agreement to achieve the same result.

SUMMARY AND CONCLUSIONS:

21. The determination of major applications of this nature obliges a careful balancing exercise, within the context set by legislation, which requires the County Council to make decisions in accordance with the development plan, unless material considerations indicate otherwise.
22. The report sets out in some detail a range of land use planning issues which are relevant to the weighing of the merits of the application. Evaluation of the issues suggests there are conflicts with elements of development plan policy, and that the final decision rests on whether any harm identified is sufficiently compelling, when set against other material considerations, to justify refusal of permission.
23. In assessing the weight to be given to factors which presume against the grant of permission, due account has to be given to the possibility of addressing conflicts with policy or potential harm, by way of suitable planning conditions or legal agreements. Hence whilst acknowledging the basis of concerns over aspects of the development, experience from previous applications and appeals suggests specific impacts such as those relating to noise, shadow flicker, electromagnetic interference, nature conservation, archaeology, hydrology and highways, can be mitigated satisfactorily through appropriate controls as part of any permission. Consultee responses on the Gorsedd Bran application indicate that suitable

controls can be included to address concerns arising in relation to these issues.

24. Looking first at the Gorsedd Bran proposal in the context of the development plan, the main policies are MEW 8 and MEW 10, which deal respectively with renewable energy and windfarm development. Other policies are relevant to specific elements of the proposals. MEW 8 and MEW 10 provide a general presumption in favour of wind turbine developments, unless the impacts conflict with a number of criteria 'tests', and involve unacceptable harm. The report suggests there will be conflict with policy in terms of the significant visual and landscape effects, including cumulative impact with existing and potential future windfarms in the SSA. There are potential conflicts with a number of other policy tests, but realistic controls and mitigation measures are possible to address these.
25. The other material considerations of relevance to the determination are policy and guidance from national and Welsh Assembly Government, and the Denbighshire – Conwy Interim Planning Guidance on Onshore wind farms. WAG's Technical Advice Note 8 (2005) and MIPPS 01/2005 are highly significant, up to date policy and guidance, introducing the concept of concentrating large scale windfarm developments to identified Strategic Search Areas. The TAN and MIPPS effectively 'designate' the Clocaenog Forest area as suitable for windfarm developments and set specific targets for the generation of electricity from renewables. This locational approach to windfarm developments has been supported by the County Council in approving its Interim Planning Guidance in February 2007. The Gorsedd Bran site is within the Strategic Search Area identified in TAN 8, and the 'refined' boundary (the Clocaenog Wind Farm Zone) in the IPG. Whilst the weight to be attached to the IPG has been questioned by the appeal Inspector at the recent Wern Ddu inquiry, this is nonetheless a material consideration on the application, which supports the principle of locating large scale windfarms in this location.
26. Ultimately, the view is taken that conflict with Unitary Development Plan landscape protection policies is inevitably outweighed by current policy and guidance in TAN 8 and the 2005 MIPPS, which attach a high premium to the generation of electricity from renewables. The harm which would arise to the local landscape has now to be set against the context of the change brought about already by the existing Tir Mostyn windfarm, and with the clear acceptance in TAN 8, MIPPS and the IPG of significant landscape change within and around Strategic Search Areas through the creation of 'windfarm landscapes'.
27. In conclusion, therefore, having due regard to the range of issues relevant to the determination of the application, it is respectfully suggested that a number of potential conflicts with planning policies can be addressed through suitable mitigation, and that the harm to the local landscape is outweighed by the strong material considerations in TAN 8 and MIPPS. The officer recommendation is consequently for the grant of permission, subject to appropriate conditions and a legal agreement.
28. The recommendation below is subject to the completion of a Section 106 agreement or such alternative legal agreement acceptable to the Council's Legal Officer, to secure:
 - The submission and implementation of a detailed Habitat Management Plan, including a mechanism to establish a Steering Group/Committee to monitor and review the plan.

In addition, and in relation to those matters considered outside the planning

process:

- The establishment of a Community Fund based on agreed developer contributions, and a mechanism for holding the Fund in Trust, and managing and distributing the Fund, to include for:
 - The establishment of an Environmental Community Benefit Fund for habitat management and enhancement at Gors Maen Llwyd and other locations within the Blanket Bog Restoration Environmental Community Benefit Zone, in accordance with a Land Management Plan and the Statement of Environmental Masterplanning Principles, to include the creation of a Steering Group to monitor and review the Management Plan and the administration of the Fund; and the basis of contributions.
 - Contribution to a fund for the conservation of red squirrels, and the managing and distributing the Fund.

mechanism for

The planning permission would not be released until the completion of the relevant legal agreement; and on failure to complete the agreement within 12 months of the date of this Committee, the application would be reported back to the Committee for determination against the policies and guidance relevant at that time.

The contents of the Environmental Impact Assessment has been taken into account in preparing this report and recommendation.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. The development hereby permitted shall begin before the expiration of 5 years from the date of this permission.
2. The planning permission shall be for a period of 25 years from the date of the first generation of electricity to the grid from the development. Written confirmation of the date of the first generation of electricity to the grid from the development shall be provided to the Planning Authority no later than 1 calendar month after the event.
3. The location of the turbines and ancillary structures such as anemometer masts, and the access tracks, shall be in the positions indicated on drawing reference 029-015 Rev A received by the Local Planning Authority 16th November 2007, subject to variation of the indicated position of any turbine or any track on the plans by up to 20 metres, or where the written approval of the Local Planning Authority has been given to a variation arising from details approved in relation to other conditions of this permission. Any variation greater than 20 metres shall require the written approval of the Local Planning Authority.
4. This permission relates solely to the erection of 3 bladed wind turbines as described in the application plans and drawings with a maximum height to blade tip of 125m from original ground level.
5. All the blades shall rotate in the same direction.
6. The finish of all the turbines shall be semi-matt and their colour, including proposals for mitigating the contrast between the tower base section and surrounding vegetation, shall be approved in writing by the Local Planning Authority before the turbines are erected on site.
7. No part of the development shall display any name, logo, sign, advertisement or means of illumination without the prior written approval of the Local Planning Authority.
8. All electricity and control cables between the turbines and the switch room shall be laid underground and alongside tracks which are constructed on the site as part of the development unless otherwise agreed in writing with the Local Planning Authority.

CONSTRUCTION METHOD STATEMENT

9. No work of construction, laying out of access tracks, or work on the construction compound shall be commenced until a Construction Method Statement has been submitted in writing to and approved by the Local Planning Authority. The scheme shall include provisions relating to:

Construction and reinstatement of the temporary site compound
Construction and reinstatement of all internal tracks including measures to reinstate planting on approach tracks
Soil stripping management
Surface and foul water drainage
Pollution Prevention and Control plan, in particular to demonstrate steps to prevent impacts on streams which provide private water supplies, and proposals for mitigating and remedying any degradation in the quality of water supplies.
Traffic Management including HGV routes
Traffic signing along public roads
Recording the existing state of the site

10. No works on the construction of the turbine bases or delivery of wind turbine components or wind turbine erection plant shall be permitted to commence until there have been submitted to and approved in writing by the Local Planning Authority:
- o a scheme for the recording of existing road conditions by the developer,
 - o the local widening and improvement, at the developer's expense, of the county highway between the B4501 and the site entrance.
 - o arrangements for the repair and reinstatement of public highways.
11. Construction work on the site shall be confined to the hours of 0700-1900 Mondays to Fridays and 0700-1300 hours on Saturdays with no working in Sundays or national public holidays unless otherwise agreed in writing with the Local Planning Authority.
12. All new tracks shall be surfaced with stone from the approved borrow pit(s) or excavations for the turbine bases, unless otherwise agreed in writing by the Local Planning Authority.
13. The permanent running widths of internal access tracks shall be no greater than 5m wide (10m on bends) unless agreed in writing by the Local Planning Authority.

SURFACE WATER DRAINAGE

14. No works of construction, laying out of access tracks, or work on the construction compound shall be commenced until a scheme for the disposal of foul and surface waters has been approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.
15. Nothing other than uncontaminated excavated natural materials shall be tipped on the site.
16. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.
17. None of the trees within the application site shall be felled until the written approval of the Local Planning Authority has been obtained to the timing and methodology of the clearance operations, and to specific details of the means of addressing/attenuating surface water run off from the tree clearance, related construction operations, together with associated mitigation and monitoring arrangements, including steps to remedy any degradation in the quality of water supplies to private properties in the locality.

DECOMMISSIONING

18. Not later than 12 months after the date of commissioning of the development hereby approved, a scheme for the restoration of the site, including the dismantling and removal of all elements above ground level, and the removal of turbine bases to a depth of 1.0m, shall be submitted for the consideration of the Local Planning Authority. The scheme approved in writing by the Local Planning Authority shall be carried out and completed within 12 months from the date that the planning permission hereby granted expires.
19. If any wind turbine generator(s) hereby permitted ceases to operate for a continuous period of 6 months then, unless otherwise agreed by the Local Planning Authority, a scheme

for the decommissioning and removal of the wind turbine generator(s) and any other ancillary equipment and structures relating solely to that generator(s), shall be submitted to and agreed in writing by the Planning Authority within 6 months of the end of the cessation period. The scheme shall include details for the restoration of the site. The scheme shall be implemented within 6 months of the date of its agreement by the Local Planning Authority.

HIGHWAYS

20. Full details of the proposed site access shall be submitted to and approved in writing by the Local Planning Authority before any work commences on site.

21. Facilities shall be provided and retained within the site for the loading, unloading, parking and turning of construction vehicles in accordance with a scheme to be agreed with the Local Planning Authority, and which shall be completed before work on the turbines is commenced. These facilities shall be retained for the whole duration of the construction period.

22. Facilities shall be provided and retained within the site for loading, unloading, parking and turning of service vehicles in accordance with a scheme to be agreed with the Local Planning Authority, and which shall be completed prior to the commissioning of the wind farm.

BORROW PITS

23. No development shall commence on any of the access tracks or turbines until full details of the location, maximum extent and depth, profiles, means of working including rock crushing and restoration of the borrow pits have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented as approved.

ARCHAEOLOGY

24. No works of construction, laying out of access tracks, works on the construction compound, or tree felling shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

25. Where development approaches to within 30 metres of any archaeological site, that site shall be protected and marked by a robust temporary barrier and the barrier should remain in place for the duration of the construction phase so that no accidental damage occurs. The placement of the barriers should not directly impact upon any unscheduled site or scheduled ancient monument areas and must be placed outside any scheduled monument boundary.

AIR SAFEGUARDING

26. The developer shall provide written confirmation of the following details to the Ministry of Defence and Civil Aviation Authority within 3 months of the date of this permission and the commencement of development shall not occur until this confirmation has been given:

- i) Proposed date of commencement of the development
- ii) The maximum extension height of any construction equipment.

27. Within 14 days of the commissioning of the final turbine, the Company shall provide written confirmation of the following details to the Ministry of Defence and Civil Aviation Authority:

- i) Date of completion of construction

- ii) The height above ground level of the highest potential obstacle (anemometry mast or wind turbine).
- iii) The position of that structure in latitude and longitude.
- iv) The lighting details of the site.

TELECOMMUNICATIONS INTERFERENCE

28. None of the turbines shall be erected until a baseline television reception study in the area has been undertaken by a qualified television engineer at the developer's expense, and has been submitted to the Local Planning Authority. Details of any works necessary to mitigate any adverse effects to domestic television signals in the area caused by the development shall also be submitted to and approved in writing by the Local Planning Authority. Any claim by any person for domestic television picture loss or interference at their household within 12 months of the final commissioning of the wind farm/turbine, shall be investigated by a qualified television engineer at the developer's expense and the results submitted to the Local Planning Authority. Should any impairment to the television reception be determined by the qualified engineer as attributable to the wind farm/turbine on the basis of the baseline reception study, such impairment shall be mitigated within 6 months of this decision according to the mitigation scheme outlined, unless otherwise agreed by the Local Planning Authority.

SHADOW FLICKER

29. None of the turbines shall be erected until the written approval of the Local Planning Authority has been obtained to the details of a scheme to address the incidence of shadow flicker at any dwelling; such scheme to include details of photocells or other measures to control, re orientate, or shut down particular turbines. Unless agreed in writing by the Authority, any turbine producing shadow flicker effects at any dwelling shall be shut down, and the blades remain stationary until the conditions causing those effects have passed. The scheme shall be implemented as approved.

ECOLOGY

30. No works of construction, laying of access tracks, works on the construction compound, or tree felling shall commence until the written approval of the Local Planning Authority has been obtained to a scheme for habitat management and enhancement during and after the lifetime of the windfarm, to include for a mechanism to establish a Steering Group/Committee to review the plan, and how the agreed measures are to be implemented, including timing. The scheme (which shall be implemented as approved) shall follow the principles set out in "Gorsedd Bran Wind Farm - Habitat Management Scheme Heads of Terms - "prepared by Tegni Cymru Cyf in association with RSPB and dated 12-11-2007.

NOISE

31. At the reasonable request of the Council, the operator of the development shall employ an independent consultant approved by the Council, at the operator's expense, to measure and assess the level of noise emissions from the wind turbine generators following the procedures described in the Guidance Notes attached to these conditions.

32. At the reasonable request of the Council the operator of the development shall employ an independent consultant approved by the Council, at the operator's expense, to measure and assess the tonal noise of the development in accordance with the procedure described in the Guidance Notes attached to these conditions.

33. The wind farm operator shall log wind speed and wind direction data at a grid reference to be approved by the Council as planning authority to enable compliance with conditions 31 and 32 to be monitored. This wind data shall include the wind speed in metres

per second (ms-1) and the wind direction in degrees from north for each 10 minute period.

At the reasonable request of the planning authority, the recorded data measured at 10m height above ground level and relating to any periods during which noise monitoring took place or any periods when there was a specific noise complaint shall be made available to them. Where wind speed is measured at a height other than 10m, the wind speed data shall be converted to 10m height, accounting for wind shear by a method whose details shall also be provided to the planning authority. At the reasonable request of the Council, the wind farm operator shall provide a list of ten-minute periods during which any one or more of arelevant set of turbines was not in normal operation. This information will only be required for periods during which noise monitoring in accordance with conditions 31 and 32 took place. The "relevant set" and "normal operation" are defined in the guidance notes.

34. The rating level of noise emissions from the combined effects of the wind turbine generators when measured and calculated in accordance with the guidance notes shall not exceed the levels set out in the tables following:

The figures in the body of the tables are noise levels from turbines measured in dB as an LA90 at each wind speed in accordance with the procedure set out in the guidance notes attached to this Certificate:

At Wern Isaf, Wern Uchaf, Nant Gwyn, Hafod Caradoc, Pennant Uchaf, Hafodwen, Cwm-y-Rheinwedd, Nant-y-Lladron and Rhan-hir:

Wind Speed m/s	4	5	6	7	8	9	10 and above
Individual Standard dB	38	38	39	41	41	41	42

At all other properties:

Wind Speed m/s	4	5	6	7	8	9	10 and above
Individual Standard dB	35	35	35	35	38	40	42

The reason(s) for the condition(s) is(are):-

1. In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and in order that the Local Planning Authority returns control over the longer term uses of the land.
3. For the avoidance of doubt and to allow the Local Planning Authority to retain control over the development.
4. For the avoidance of doubt and in the interest of visual amenity.
5. For the avoidance of doubt and in the interest of visual amenity.
6. For the avoidance of doubt and in the interest of visual amenity.
7. For the avoidance of doubt and in the interest of visual amenity.
8. In the interests of visual amenity.
9. To ensure proper controls over the matters referred to minimise the impact of the development.
10. In the interests of highway safety.

11. In the interests of amenity of occupiers of property in the locality.
12. To minimise the need for imported material and movement of HGV's on highways.
13. In the interests of visual amenity.
14. To prevent pollution of the water environment.
15. To prevent pollution of the water environment.
16. To prevent pollution of the water environment.
17. To ensure proper arrangements to limit surface water run off and to protect the quality of water supplies to private properties.
18. To ensure adequate arrangements are in place to reinstate the site.
19. To ensure adequate arrangements are in place to reinstate the site.
20. In the interest of free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.
21. To provide for the loading, unloading and parking of construction vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
22. To provide for loading, unloading and parking of service vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
23. To ensure proper arrangements for the capture of material for access tracks, and subsequent reinstatement of the land.
24. To ensure adequate arrangements for the archaeological recording and observations.
25. To ensure the protection of archaeological interests.
26. In the interests of air safety.
27. In the interests of air safety.
28. To ensure full investigation of television reception and arrangements to address any interference as a result of the development.
29. In the interests of the amenities of occupiers of any affected dwellings.
30. To ensure adequate steps are taken to protect and enhance the ecology of the area.^{31.} To minimise disturbance to residents in the vicinity of the wind farm.
32. To minimise disturbance to residents in the vicinity of the wind farm.
33. To minimise disturbance to residents in the vicinity of the wind farm.
34. To minimise disturbance to residents in the vicinity of the wind farm.

NOTES TO APPLICANT:

Your attention is drawn to the existence of public footpath No. 13 which abuts the site. There shall be no interference with the footpath at any time during the construction or operational phases of the development, other than with the prior consent of the Highway Authority.

The applicant should be aware that the construction of any dam, weir or other like structure which affects the flow in a watercourse requires the prior formal consent of the Environment Agency's Flood Defence Department. Before any works are carried out in, adjacent to, or over a watercourse, the applicant should contact Duncan Quincey on 01244 894528 to discuss whether a consent is required.

If the development is to utilise reclaimed or recycled aggregates in the construction process these must conform to the WRAP quality assurance guidelines to avoid the need to register Exemptions from the Waste Management Licensing regulations 1994. If products are used that do not conform to the above; exemptions for their use must be registered with the Environment Agency NCCC on 08708 506506. All waste transfers to and from the site must be accompanied by Duty of Care Waste Transfer notes in line with S.34 of the Environmental Protection Act 1990. Please contact Aled Zachary on 01244 894610 for more information on the above.

THE GUIDANCE NOTES IN RELATION TO NOISE CONDITIONS

The following paragraphs are based upon steps 2-6 specified in Section 2 of the Supplementary Guidance Notes to the Planning Obligation contained within pages 102 et seq of "The Assessment and Rating of Noise from Wind Farms, ETSU-R-97" published by ETSU for the Department of Trade and Industry. It has been adapted in the light of experience of actual compliance measurements. It is further adapted here to allow for the condition where more than one wind farm may affect a property.

NOTE 1

Values of the LA90,10min noise statistic should be measured at the affected property using a sound level meter of at least IEC 651 Type 1 quality. This should be fitted with a ½" diameter microphone and calibrated in accordance with the procedure specified in BS 4142: 1990. The microphone should be mounted on a tripod at 1.2 - 1.5 m above ground level, fitted with a two layer windshield wind shield or suitable equivalent, and placed in the vicinity of, and external to, the property.

The intention is that, as far as possible, the measurements should be made in "free-field" conditions. To achieve this, the microphone should be placed at least 10m away from the building facade or any reflecting surface, where possible, and no less than 3.5m away where this is not possible with appropriate adjustment made to measured levels to account for facade effects.

The LA90,10min measurements should be synchronised with measurements of the 10-minute average wind speed and with operational data from the turbine control systems of the wind farm or farms.

The wind speed and wind direction and a note of all 10 minute periods when one or more of the relevant set of turbines was not operating normally should be provided to the consultant to enable an analysis to take place.

The "relevant set" of turbines is the six turbines nearest to the monitoring location. The precise definition of "normal operation" should be agreed in writing with the local authority on

the basis of data available but should generally be taken to mean when the turbine power output is not significantly different from the reference power curve using the nacelle anemometer.

In the interests of commercial confidentiality no information is required to be provided for individual turbines or on the nature of any abnormality or for any period during which noise monitoring is not taking place.

NOTE 2

The noise measurements should be made over a period of time sufficient to provide not less than 100 valid data points. Measurements should also be made over a sufficient period to provide valid data points throughout the range of wind speeds considered by the local authority to be most critical. Valid data points are those that remain after the following data have been excluded:

All periods during rainfall

All periods during which wind direction is more than 45degrees from every line from each of the turbines in therelevant set and the measurement position.

All periods during which turbine operation was not normal.

A least squares, "best fit" curve should be fitted to the data points.

NOTE 3

Where, in the opinion of the Local Authority, the noise emission contains a tonal component, the following rating procedure should be used. This is based on the repeated application of a tonal assessment methodology.

For each 10-minute interval for which LA90,10min data have been obtained, a tonal assessment is performed on noise emission during 2-minutes of the 10-minute period. The 2-minute periods should be regularly spaced at 10-minute intervals provided that uninterrupted clean data are obtained.

For each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference, *L_{tm}, is calculated by comparison with the audibility criterion given in Section 2.1 on page 104 et seq of ETSU-R-97.

The margin above audibility is plotted against wind speed for each of the 2-minute samples. For samples for which the tones were inaudible or no tone was identified, substitute a value of zero audibility.

A linear regression is then performed to establish the margin above audibility at the assessed wind speed. If there is no apparent trend with wind speed then a simple arithmetic average will suffice.

The tonal penalty is derived from the margin above audibility of the tone according to the

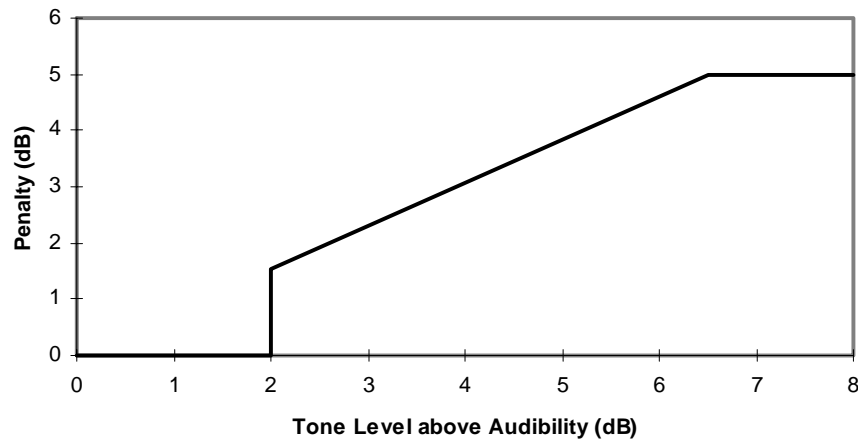


figure below.

The rating level at each wind speed is the arithmetic sum of the wind farm noise level, as determined from the best fit curve described in Note 2, and the penalty for tonal noise.

The rating level shall be determined for each wind speed. If the values lie below the maximum values of turbine noise indicated by the table in the annex to these conditions then no further action is necessary.

NOTE 4

If the rating level is above the limit, a correction for the influence of background noise should be made. This may be achieved by repeating the steps in Note 2, with the wind farm that is the subject of the complaint switched off, and determining the background noise (including the noise from any other wind farm still operating) at the assessed wind speed, L_b . The wind farm noise at this speed, L_w , is then calculated as follows where L_a is the measured level with turbines running but without the addition of any tonal penalty:

$$L_w = 10 \log \left(\frac{L_a}{10^{10}} - \frac{L_b}{10^{10}} \right)$$

The Rating level is re-calculated by adding the tonal penalty (if any) to the wind farm noise. If the rating level lies below the values indicated from the table in the annex then no further action is required. If the rating level exceeds any of the turbine noise levels in the table in the Annex then the development fails to comply with Planning Condition 34.

NOTE 5

Where in the opinion of the Local Authority the complaint of noise relates to more than one wind farm or the Local Authority considers that it may be due to more than one wind farm the wind farms under suspicion (the nominated wind farms) should be identified in writing to the operators by the Local Authority. The procedures above should be carried out for each of the nominated wind farms. In practice this will normally mean that the same measurement data obtained by the procedure described above in notes 1 to 3 can be analysed separately for each wind farm though the duration of the measurements may have to be longer. Note that each analysis should use the wind speed measurements from the wind farm being assessed.

Should it be necessary to perform the procedure in Note 4 this may require that any one or more of the nominated wind farms to be switched off as required by the Local Authority. In the interests of clarity, if the procedure in Note 4 is not necessary then all nominated wind farms comply with the planning condition.

Application 25/2007/0642/PF
Gorsedd Bran windfarm

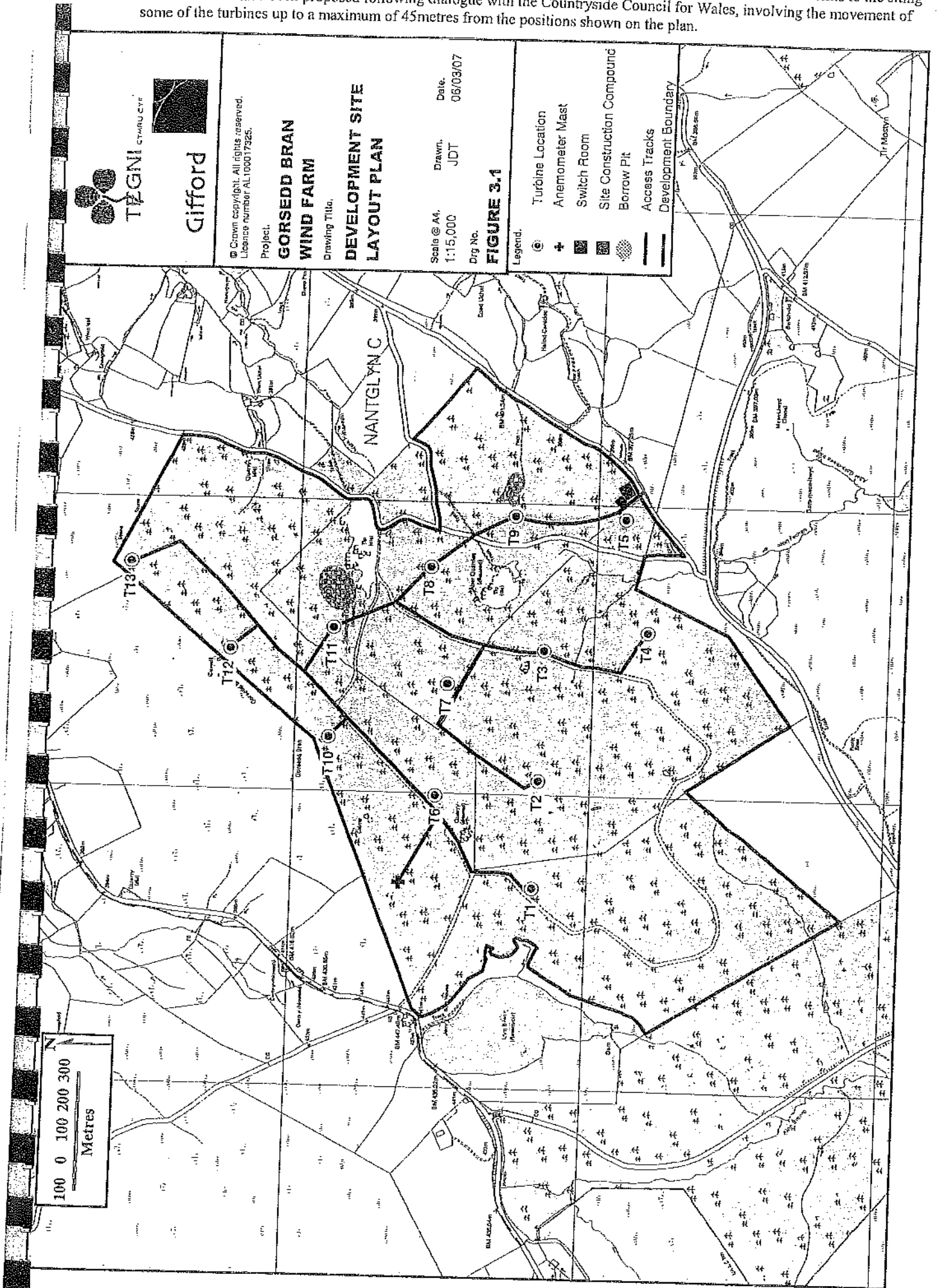
APPENDICIES TO REPORT

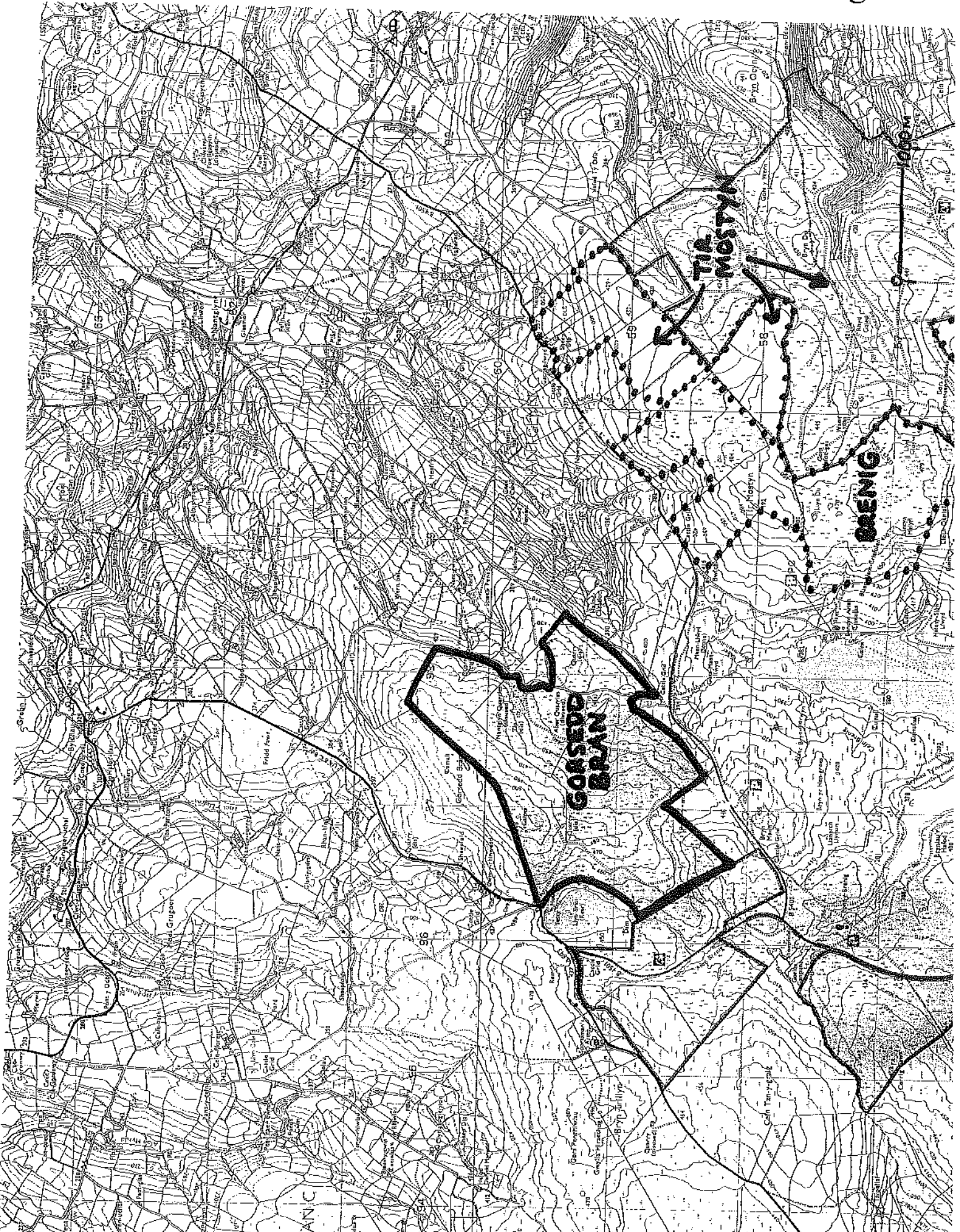
- 1. Site layout plan**
- 2. Relationship with dwellings**
- 3. Relative location of windfarm sites**
- 4. Unitary Development Plan Policies
MEW 8 and MEW10**
- 5. TAN 8 - Strategic Search Area A**
- 6. Conwy/Denbighshire Interim Planning
Guidance - Clocaenog Wind Farm Zone**
- 7. List of individuals making
representation on the application**

APPENDIX 1

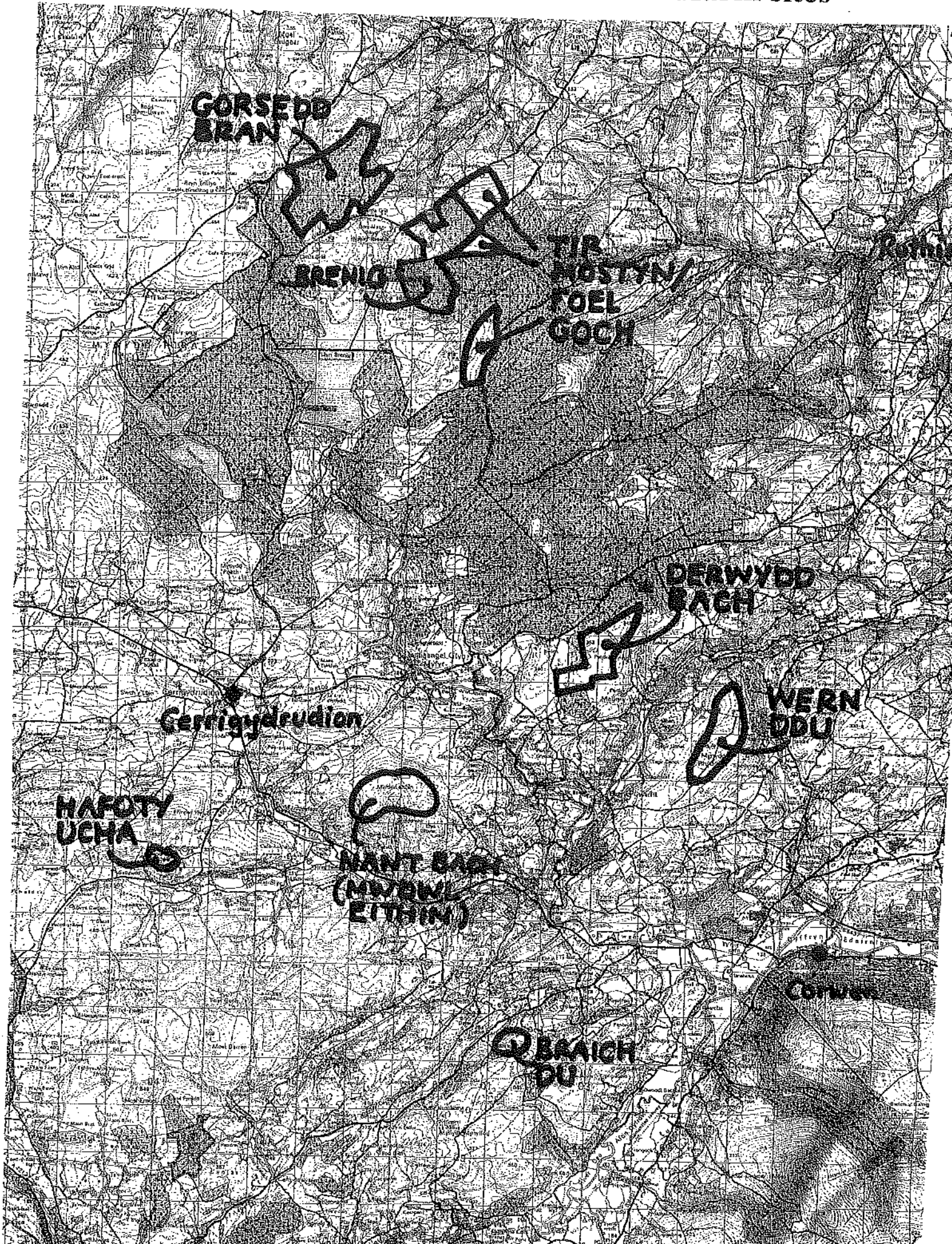
Site layout plan

This plan is a photoreduction of the original layout plan submitted as part of the application. Minor amendments to the siting of the turbines have been proposed following dialogue with the Countryside Council for Wales, involving the movement of some of the turbines up to a maximum of 45metres from the positions shown on the plan.





Plan showing relative location of windfarm sites



Policy MEW 6 - Protection of Mineral Operations & Resources

DEVELOPMENT THAT HAS AN UNACCEPTABLE EFFECT ON EXISTING MINERAL OPERATIONS, OR THAT STERILISES MINERAL RESERVES SUCH THAT FUTURE EXTRACTION WOULD BE PREJUDICED, WILL NOT NORMALLY BE PERMITTED. WHERE OTHER PERMITTED DEVELOPMENT IS LIKELY TO STERILISE MINERAL RESERVES, SCHEMES FOR THE REMOVAL OF THE MINERAL WILL BE SUPPORTED IN PRINCIPLE, SUBJECT TO THE REQUIREMENTS OF OTHER PLAN POLICIES PARTICULARLY MEW 1 AND MEW 2.

The Council will seek to ensure that development is not unreasonably affected by mineral operations and vice - versa. The Council will also seek to safeguard mineral reserves from development proposals likely to affect their future extraction. Whilst workable mineral reserves normally occur within the open countryside, even the limited development acceptable under open countryside policies can sterilise or hinder their future extraction. The Council will therefore seek to preserve mineral reserves for the future. The identification of mineral reserves will in itself create no presumption that proposals for mineral extraction will be acceptable. Further guidance is available from the Council's Supplementary Planning Guidance series

Policy MEW 7 - Dormant Sites

FURTHER MINERAL EXTRACTION AT DORMANT SITES WILL BE TREATED AS IF IT WERE FOR AN APPLICATION FOR NEW MINERALS OPERATION NOTWITHSTANDING THAT THE VALIDITY OF THE PERMISSION IS RECOGNISED.

A number of dormant mineral sites in the County benefit from valid planning permissions dating back to the late 1940's and early 1950's. Many of these sites were granted permission unconditionally or subject to very basic conditions which today are totally inadequate for controlling the development and safeguarding the environment.

The Planning and Compensation Act 1991 and the Environment Act 1995 legally require operators and owners of both active and dormant sites to submit a scheme of conditions for a revised set of modern working and restoration conditions. After the 1st November 1995 and 1st May 1991 it became unlawful to work dormant Review and Interim Development Order sites respectively until a set of full modern working, environmental and restoration conditions had been approved by the MPA. Subsequently, the Council will treat any proposal for further mineral extraction at a dormant site as an application for a new mineral operation.

ENERGY

Policy MEW 8 - Renewable Energy

DEVELOPMENT THAT GENERATES OR CAPTURES ENERGY FROM NATURALLY SUSTAINABLE SOURCES WILL BE SUPPORTED IN PRINCIPLE AS FAR AS IS COMPATIBLE WITH OTHER PLAN POLICIES. IN PARTICULAR, DEVELOPMENT WILL ONLY BE PERMITTED WHERE THERE IS NO UNACCEPTABLE EFFECT TO THE ENVIRONMENTAL QUALITY OF THE LOCALITY.

Planning Policy Wales (2002), advocates the exploitation and development of renewable energy sources wherever they have prospects of being economically attractive and environmentally acceptable. Forms of renewable energy include hydro power, wind energy, solar systems, landfill gas, anaerobic digestion, biomass, (wood fuel) and waste combustion. The Council is committed to



considering the contribution the plan area is able to make in meeting need on a local, regional and national basis.

However, there is no justification for this to be at the expense of other important concerns such as landscape and nature conservation protection. In order to reconcile these different issues it will therefore be necessary to balance the commitment to encourage renewable energy with the local and national need to conserve the environment and the landscape for its own sake.

.....

Policy MEW 9 - Hydro-Electric Power

HYDRO-ELECTRIC POWER SCHEMES WILL BE PERMITTED PROVIDED THAT:

- i) THERE IS NO UNACCEPTABLE HARM ON THE HYDROLOGICAL SYSTEM, INCLUDING THE QUANTITY AND QUALITY OF GROUND AND SURFACE WATERS, TO THE DETRIMENT OF BIODIVERSITY OF THE NATURAL ENVIRONMENT, PROTECTED SITES AND SPECIES;
- ii) THE TURBINE HOUSE DOES NOT UNACCEPTABLY HARM THE LANDSCAPE BY VIRTUE OF ITS SITING, SCALE, DESIGN AND MATERIALS;
- iii) POWER LINES, HEADRACE AND TAILRACE PIPES SHALL NOT UNACCEPTABLY HARM THE VISUAL APPEARANCE OF THE AREA. IN THE DESIGNATED AONB AND AOB THE COUNCIL WILL REQUIRE DEVELOPERS TO UNDERGROUND OR RE-ALIGN PIPES AND POWER CABLES TO TAKE ACCOUNT OF THE NATURAL LANDSCAPE FEATURES;
- iv) THE PROPOSAL UTILISES EXISTING WATER RESOURCES SUCH AS RESERVOIRS AND DAMS. WHERE NEW DAMS AND RESERVOIRS ARE PROPOSED, THE COUNCIL WILL ENCOURAGE THE DEVELOPMENT OF HYDRO-ELECTRIC POWER SCHEMES AS PART OF THE PROPOSAL;
- v) THE PROPOSAL DOES NOT CREATE UNACCEPTABLE INCREASES IN NOISE, VIBRATION, AIR POLLUTION AND TRAFFIC LEVELS DURING OR AFTER CONSTRUCTION;
- vi) THERE IS NO UNACCEPTABLE HARM ON AREAS OF CONSERVATION VALUE OR FEATURES OF ARCHAEOLOGICAL, HISTORIC OR ARCHITECTURAL IMPORTANCE.

The impact of Hydro-Electric schemes on the natural environment of the County requires thorough consideration. Where appropriate, the Council may request the applicant to submit an Environmental Statement in order to assist with the full environmental appraisal of the project. The Council will consult with the Environment Agency Wales in all proposals to ensure that the development is compatible with the many other uses to which a river is put.

.....

Policy MEW 10 - Wind Power

WIND TURBINES OR WINDFARMS, INCLUDING ANY ANCILLARY ASSOCIATED DEVELOPMENTS, WILL BE PERMITTED PROVIDED THAT:

- i) ALL DETAILS OF ASSOCIATED ANCILLARY DEVELOPMENT ARE SUBMITTED WITH THE PLANNING APPLICATION AS AN INTEGRAL PART OF THE SCHEME;

- ii) THERE IS NO UNACCEPTABLE HARM TO: THE SETTING OF LISTED BUILDINGS; CONSERVATION AREAS; AREAS OR FEATURES OF ARCHAEOLOGICAL; HISTORIC OR ARCHITECTURAL IMPORTANCE;
- iii) THE PROPOSAL WILL NOT UNACCEPTABLY HARM THE CHARACTER AND APPEARANCE OF THE LANDSCAPE ESPECIALLY THE AONB, AOB, LLA'S, HISTORIC LANDSCAPES OR THE SNOWDONIA NATIONAL PARK;
- iv) THE PROPOSAL DOES NOT LEAD TO UNACCEPTABLE NOISE LEVELS TO RESIDENTIAL AMENITY IN THE SURROUNDING AREA;
- v) THERE IS NO UNACCEPTABLE RISK OR NUISANCE TO THE PUBLIC ARISING FROM WIND TURBINES, SUCH AS SAFETY, SHADOW FLICKER, OR RADIO INTERFERENCE;
- vi) THE EXISTING ROAD NETWORK IS ADEQUATE TO SERVE THE DEVELOPMENT, OR IS MADE ADEQUATE, AND SUITABLE ACCESS IS PROVIDED TO THE NETWORK;
- vii) THE PROPOSAL WOULD NOT LEAD TO AN UNACCEPTABLE CUMULATIVE VISUAL IMPACT IN AN AREA WHERE ZONES OF VISIBILITY OVERLAP. PARTICULAR ATTENTION WILL BE PAID TO THE POTENTIAL EFFECTS OF A PROLIFERATION OF SUCH DEVELOPMENTS IN ANY ONE AREA;
- viii) THE PROPOSAL DOES NOT CAUSE UNACCEPTABLE HARM TO THE ENJOYMENT OF THE LANDSCAPE FOR RECREATIONAL AND TOURISM PURPOSES;
- ix) THERE IS NO UNACCEPTABLE EFFECT ON GROUND WATERS OR PRIVATE WATER SUPPLIES.
- x) THERE IS NO UNACCEPTABLE EFFECT ON NATURE CONSERVATION INTERESTS.

IN THE EVENT THAT DEVELOPMENT IS NON-OPERATIONAL FOR A CONTINUOUS PERIOD OF 6 MONTHS, THE PERMITTED PLANT, EQUIPMENT AND ANY ANCILLARY STRUCTURES WILL BE REQUIRED TO BE DISMANTLED WITHIN 6 MONTHS, REMOVED FROM THE SITE AND RESTORATION UNDERTAKEN TO AN ACCEPTABLE USE AND STANDARD.

All proposals should be accompanied by an Environmental Assessment in accordance with the Town and Country Planning (Assessment of Environmental Effects) (Amended) Regulations 1994.

The Council will seek to ensure that cumulative impact, especially cumulative visual impact, should be minimised. The Council therefore considers it essential that any assessment of the impact of such proposals includes a study of at least a 15 kilometer radius 'zone of visibility' showing where the proposal will be seen from. This is particularly important where zones of visibility of proposals for wind turbines overlap with existing or approved developments. It is also important to control any ancillary development, which will include operational buildings, including bases, car parking areas, storage, fences and access roads.

In the event that any development is non-operational for a continuous period of 6 months, the permitted plant, equipment and any ancillary development will be required to be dismantled within 6 months, removed from the site and restoration undertaken to an acceptable use and standard.

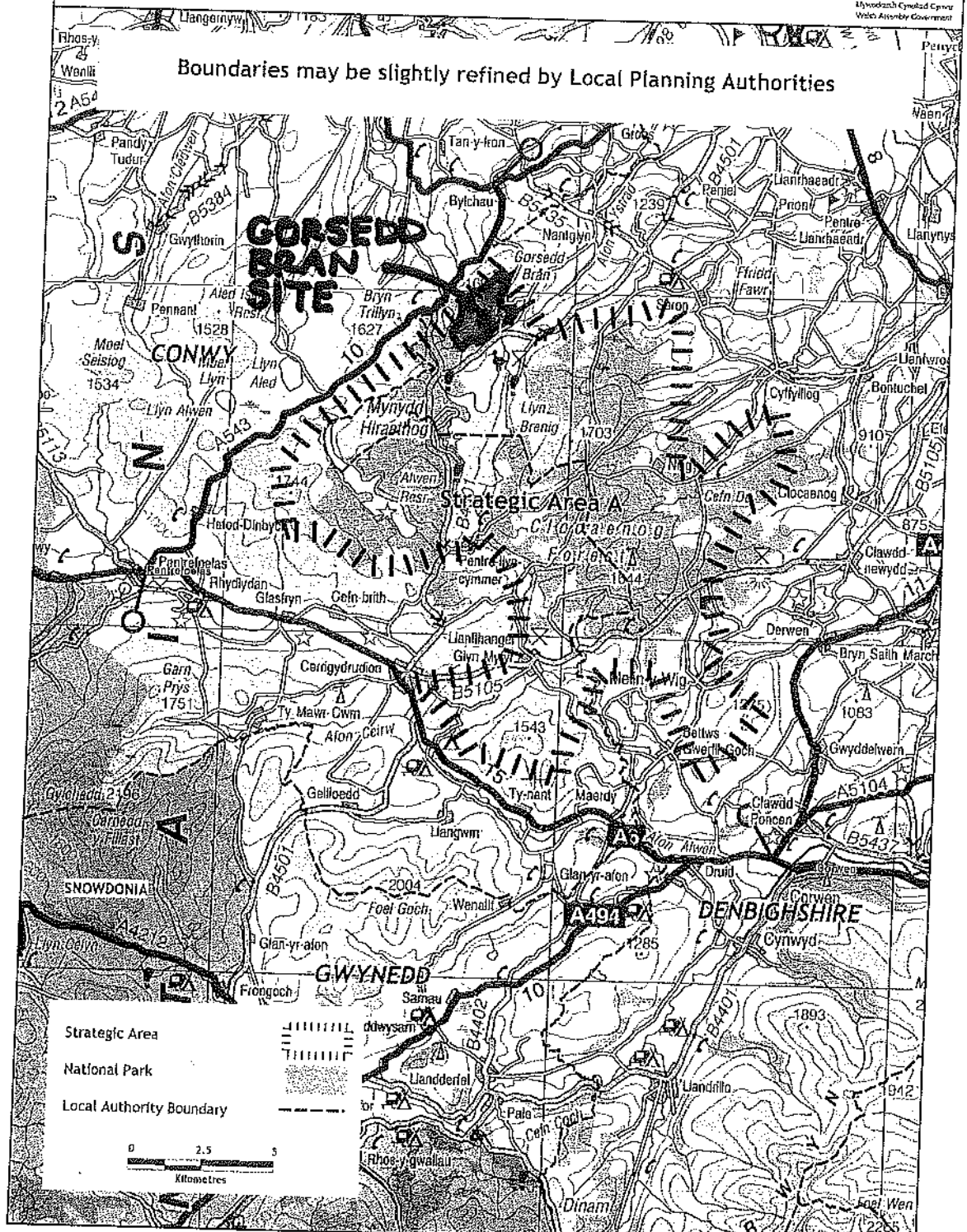
Further guidance is available from the Council's Supplementary Planning Guidance series.

PLANNING FOR RENEWABLE ENERGY
 AREA A. CLOCAENOG FOREST

JULY 2005
 MAP 2



Boundaries may be slightly refined by Local Planning Authorities



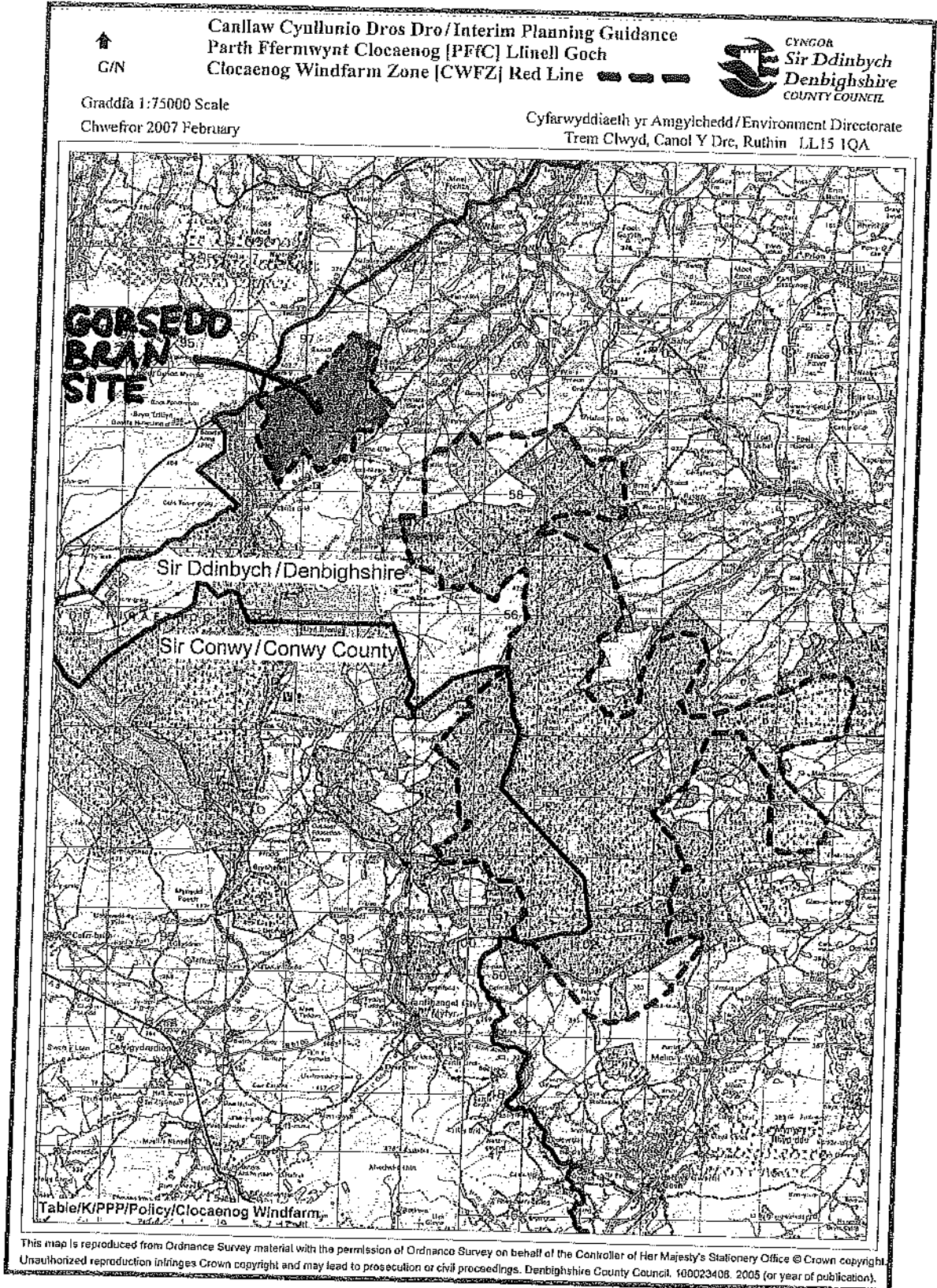
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 Rhifid of ardwysafwr ach ganiffid nos fonnid hawlfraida a gollid arendy at eich eiddon neu debyrn aelod eiddi yn eich eiddon. Rhifid frowyddid: 106017916

C46/05-06

Conwy/Denbighshire Interim Planning Guidance - Clocaenog Wind Farm Zone

7. INTERIM PLANNING GUIDANCE POLICIES FOR WIND TURBINE DEVELOPMENT

Map 1: Clocaenog Windfarm Zone



APPENDIX 7

Individuals making representations on the application

J Yates, Hafod Ty Goch, Saron
Dr J Martin & Mrs P Woodward, Tyn y Pistyll Bach, Bylchau
Mr P Seymour, Yr Hen Dy, Tyn Ffridd, Saron
Mr & Mrs G Fouikes, Plas Farm, Nantglyn
J Ward, Cae Llwyd, Nantglyn
Terri Fleming, Ty Isa, Waen, Nantglyn
J Young & P Davenport, Nantgwyn, Nantglyn
Mr & Mrs Yates, Tan y Ffordd, Waen, Nantglyn
D J Wilson, Penllan, Nantglyn, Denbigh
Mark Isherwood AM, Cardiff Bay, Cardiff
Mrs Alison Ward, Waen Las, Nantglyn
Gwenan Williams <gwenanwilliams@yahoo.co.uk>
J Brett, Segrwyd Mill Cottage, Nantglyn
Garth Parker, Cetriss, Nantglyn
G & R Williams, Hafod Bach, Bylchau
M D Jones, Nant Uchaf, Groes
Janet Ryder AM, National Assembly for Wales, Cardiff
Mr & Mrs Griffith, Bryn Robin, Groes
Michael Skuse, DART, Caenant, Llangynhafal, Ruthin
Dr Becker & Mr Aleknavicius, Glyn House, Waenm Nantglyn
Jill Wilcox-Jones, <jillywilcoxjones@hotmail.com>
Andrew Wilcox-Jones <andywilcoxjones@hotmail.com>
Mrs G D Tyrer, Cefn Maen Isaf, Saron
G Yorke, Pen y Bryn Farm, Waen, Nantglyn
Mr & Mrs Sandle, Llygad yr Haul, Waen, Nantglyn
Eric Harrison <ericharrison@hotmail.com>
Jane Yorke, Pen-y-Bryn, Waen, Nantglyn
Jacquie Dutton, Bwthyn, Penllan, Nantglyn
Claire Harrison, Dol y Glyn, Nantglyn
Dr Becker & Mr Aleknavicius, Glyn House, Waen, Nantglyn
Mr Christopher Dutton, Bwthyn Penllan, Nantglyn
Mr & Mrs Davies, Anelfynydd, Nantglyn
Mr Peter Southgate, Snowdon View, Dolwyddelan
Mr & Mrs Yates, Tan yr Ffordd, Waen, Nantglyn
Mr & Mrs Welch, Plas Nantglyn, Nantglyn
Ms N Jones, Hafod Cefn Plas Onn, Bylchau
Gareth Parker, Cetriss, Soar, Nantglyn
A Hughes Jones, Troed yr Allt, Waen, Nantglyn
Mrs D Kerr-Wilson, Mysevin, Nantglyn
Ms S Winter, Cefn y Maes, Nantglyn
Dr Harborne, Cefn y Maes, Nantglyn
Frank Roberts, Cwm y Rhinwedd, Bylchau
Ian Gardner, Gwynant, Waen, Nantglyn
Mr & Mrs Manson, Hendre Aled Lodge, Llansannan

ITEM NO: 7

WARD NO: Bodelwyddan

APPLICATION NO: 40/2007/1020/ PC

PROPOSAL: Continuation of use of premises as Class D1 clinic/consulting room (retrospective application)

LOCATION: Unit 88 Ffordd William Morgan St. Asaph Business Park St. Asaph

APPLICANT: Classic Yale Hospital

CONSTRAINTS:

PUBLICITY UNDERTAKEN: Site Notice - Yes Press Notice - Yes Neighbour letters - Yes

CONSULTATION RESPONSES:

1. BODELWYDDAN COMMUNITY COUNCIL
Awaiting Response

RESPONSE TO PUBLICITY:

None.

EXPIRY FOR DELAY IN DECISION:

- Timing of receipt of representations
- Additional information required from applicant

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. The St. Asaph business park is located approximately 800m from the A55. The site is characterized by Class B1 business offices.
2. Permission is sought for the continuation of use of the above premises as Class D1, which is described in the 1987 Use Classes Order as "Non residential institutions". The applicant, Classic Hospitals, provide private healthcare to customers who have private medical insurance or wish to pay for private medical services.
3. There are no external works proposed therefore the external appearance of the property will not be affected.

RELEVANT PLANNING HISTORY:

4. 40/2002/0786- Erection of two-storey office buildings (Class B1 Business Use), construction of new access and parking areas- Granted 29th March 2003.
5. C40/2007/00381- Unauthorised change of use- Received 13th July 2007.

PLANNING POLICIES AND GUIDANCE:

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6- Development Control Requirements
Policy EMP 3- St. Asaph Business Park

Policy EMP 4- Employment Development within Development Boundaries

GOVERNMENT GUIDANCE:
Planning Policy Wales, March 2002

MAIN PLANNING CONSIDERATIONS:

7. The main issues are considered to be:
 - i) Principle of the proposal

8. In relation to the main planning considerations in Paragraph 7:
 - i) Principle of the proposal
The site is within the St. Asaph Business Park which is designated as an employment area for Class B1 use. Class B1 is defined as uses which include light industry and research/ development uses. The purpose of this allocation is explained in the amplification of Policy EMP 3 'St. Asaph Business Park', which states that the Park is for prestige B1 uses which are high quality and low density.

The proposal for the retention of a Private Hospital (D1 use) clearly contravenes Policy EMP3 as it does not fall within the definition of a class B1 use.

It is considered that the nature of a D1 use is sufficiently different to that of a B1 use by virtue of different operating characteristics. This is demonstrated by the projected traffic flow of the 18 vehicles per day which is considered to be more than the basic operating traffic flow of a general B1 use office. Therefore the Hospital is considered to be detrimental to the character of the business Park.

Therefore it is argued that to permit a non-conforming use within the St. Asaph Business Park would set an unwanted precedent for future non-conforming uses which the council would find hard to resist. It is considered that this would undermine the clear intention and purpose of Policy EMP3 in creating a high-tech/ light industrial business park.

SUMMARY AND CONCLUSIONS:

9. The proposal does not comply with planning policy and is therefore not acceptable.

RECOMMENDATION: REFUSE- for the following reasons:-

1. It is the opinion of the Local Planning Authority that the use of the industrial unit as a private hospital (Class D1 use) within an area specifically designated as and intended for Class B1 use only is not acceptable in principle and would set an unwelcome precedent which the Local Planning Authority would find difficult to resist. As such, the proposal is contrary to Policy EMP3 of the Denbighshire Unitary Development Plan.

NOTES TO APPLICANT:

None

ITEM NO: 8

WARD NO: Dyserth

APPLICATION NO: 42/2007/1260/ PC

PROPOSAL: Retention of decking at rear of dwelling (retrospective application)

LOCATION: Cordelia James Park Dyserth Rhyl

APPLICANT: Mr Richard G Jones

CONSTRAINTS: Previous Mining Area

PUBLICITY UNDERTAKEN: Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

1. DYSERTH TOWN COUNCIL
"No objection"
2. CONSERVATION ARCHITECT
"The decking does detrimentally affect the setting of the Conservation Area."

RESPONSE TO PUBLICITY:

None.

EXPIRY DATE OF APPLICATION: 09/01/2008

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. This application is referred to Planning Committee at the request of Councillor Peter Owen due to concerns of impact on the residential amenity of neighbours.
2. The application site consists of a large semi detached dwelling house. The property lies adjacent to the Dyserth Conservation Area. Dwellings are present to both the east and west boundaries of the property.
3. Permission is sought to retain decking situated to the rear of the dwelling. The decking protrudes 5.2m from the existing patio area and measures approximately 10.3m in width. The decking has been constructed using timber and incorporates balustrades to the rear.

RELEVANT PLANNING HISTORY:

4. C42/2006/0110- Unauthorised Development- Decking. Received 7th April 2006

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6- Development Control Requirements
Policy CON 6- Development Adjacent to Conservation Areas

GOVERNMENT GUIDANCE:

MAIN PLANNING CONSIDERATIONS:

6.
 - i) Principle of the proposal
 - ii) Impact upon the conservation area/visual amenity
 - iii) Impact on residential amenity.

7. In relation to the main planning considerations in paragraph 5:
 - i) Principle of the proposal
The application site lies directly adjacent to the Dyserth Conservation Area where policy CON 6 is applicable. CON 6 relates to development adjacent to conservation areas and seeks to protect important views both into and out of a conservation area. It is important to note the findings of the Dyserth Conservation Area appraisal where the valley directly below the decking is identified as an important open space area.

It is considered that the proposal is not acceptable in principle as the decking detrimentally affects important views within the adjacent conservation area and ultimately undermines the intention of Policy CON 6.

 - ii) Impact upon the conservation area/ residential amenity
Owing to the prominent position of the decking and the fact that the property is directly adjacent to the Dyserth conservation area it is considered that the proposal will detrimentally affect important views into and out of the conservation area. This opinion is supported by the Council's Conservation Officer.

 - iii) Impact on residential amenity
The protruding decking goes beyond the natural boundary and building line and is considered that the proposal will significantly contribute to overlooking of the neighbours property. Whilst it is noted that no representations have been received from either neighbour, it is important to safeguard to the residential amenity of future neighbouring residents.

SUMMARY AND CONCLUSIONS:

8. The proposal is considered unacceptable and accordingly is recommended for refusal

RECOMMENDATION: REFUSE- for the following reasons:-

1. It is the opinion of the Local Planning Authority that the proposal to retain the decking is not acceptable. Both the design and scale of the decking is not acceptable and the decking is considered to have a detrimental affect on important views into and out of the conservation area. The decking is therefore contrary to policies CON 6 and GEN 6 i), ii) and iii) of the Denbighshire Unitary Development Plan.

NOTES TO APPLICANT:

None

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2008/00002
LOCATION: Cordelia, James Park, Dyserth, Rhyl
INFRINGEMENT: Unauthorised Development - Decking

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 6 Development Control Requirements
Policy CON 6 Development Adjacent to Conservation Areas
Policy SPG 13 Conservation Areas

GOVERNMENT GUIDANCE:
Planning Policy Wales, March 2002
Technical Advice Note Wales (9) – Enforcement of Planning Control

HUMAN RIGHTS CONSIDERATIONS

The provisions of Human Rights Act 1998 are taken into account when considering taking enforcement action against unauthorised development and other related matters. In this instance the matters under consideration relate to the right of an owner to erect an unauthorised decking area. It is considered that these rights are outweighed by policy considerations that seek to ensure any development is controlled.

1. BACKGROUND INFORMATION

- 1.1 On the 7th May 2006 it was drawn to the Local Planning Authorities attention that a decking area had been erected to the rear of Cordelia, James Park, Dyserth.
- 1.2 On the 15th November 2006 a letter was sent to the application stating that the decking would need to be reduced in size in order to comply with permitted development regulations or a planning application should be submitted in order to regularise the situation.
- 1.3 A valid planning application was received on the 15th November 2007. The application was deemed to have a detrimental effect on both the adjacent area conservation area and the surrounding neighbours.
- 1.4 Given the circumstances of the case it is now necessary to pursue enforcement action in order to remove the decking area.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised development has been carried out within the last four years.

- 2.2 Owing to the prominent position of the decking and the fact that the property is directly adjacent to the Dyserth conservation area on two sides it is considered that the proposal would have an unacceptable effect on the conservation area, and it therefore contrary to the Policy CON 6 of the Denbighshire Unitary Development Plan.
- 2.3 The protruding decking goes beyond the natural boundary and building line and is considered that the proposal will significantly contribute to overlooking of the neighbours property.

3. RECOMMENDATION

- 3.1 The authorisation to be granted for the following:
- i. Serve an Enforcement Notice to secure the removal of the unauthorised decking area at the rear of the dwelling.
 - ii. Instigate prosecution proceedings, or the appropriate action under the Planning Acts against the person, or persons upon whom any Enforcement Notice, or other such Notice is served, or against whom legal action is taken should they fail to comply with the requirements of the Enforcement Notice.
 - iii. Period for compliance; 12 months.

ITEM NO: 9

WARD NO: Prestatyn Meliden

APPLICATION NO: 43/2007/0675/ PC

PROPOSAL: Retention of 1no retractable awning

LOCATION: Miners Arms 23 Ffordd Talargoch Prestatyn

APPLICANT: Mr P Lester

CONSTRAINTS:

PUBLICITY UNDERTAKEN: Site Notice - Yes Press Notice - Yes Neighbour letters - No

CONSULTATION RESPONSES:

1. PRESTATYN TOWN COUNCIL
"Object – design not in keeping with environmentally sensitive area"

RESPONSE TO PUBLICITY:

None

EXPIRY DATE OF APPLICATION: 07/08/2007

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. The proposal is a retrospective full planning application for the retention of a retractable awning.
2. The property is a detached public house that is located in a prominent position on the main Meliden to Prestatyn road. The awning has been erected on the front elevation of the property on the Southern side of the protruding front entrance hall. The awning is positioned 2.2m above ground level. The awning measures 3.3m wide with a projection of 2.5m. The awning is currently navy blue in colour, is to be replaced with a black cloth covering with mechanism to be concealed in a black timber box unit, fixed to the existing wall.

RELEVANT PLANNING HISTORY:

3. None.

PLANNING POLICIES AND GUIDANCE:

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (Adopted 3rd July 2002)
Policy CON 5 Development in Conservation Areas
Policy GEN 1 Development within Development Boundaries
Policy GEN 6 Development Control Requirements

GOVERNMENT GUIDANCE

Planning Policy Wales, March 2002

MAIN PLANNING CONSIDERATIONS:

5.
 - i) Principle of Development
 - ii) Impact on the Conservation Area

6. With regards to the considerations in paragraph 5 above:
 - i) Principle
With regards to the objection from Prestatyn Town Council, the development site is at a prominent location in Meliden, however the development is acceptable in principle as it is a reasonable addition to a public house. The changes in colour of the awning from blue to black and the concealment of the mechanism, will result in a development that is acceptable in terms of respecting the Conservation Area.

 - ii) Impact on the Conservation Area
Although it is in the Meliden Conservation Area, an awning black in colour, to match the existing type and design would be acceptable on this building, with the mechanism concealed in an approved black timber box unit.

SUMMARY AND CONCLUSIONS:

7. The retention of the retractable awning would be acceptable subject to conditions to lessen the impact on the Meliden Conservation Area.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The works hereby permitted shall be implemented within one month of the date permitted.

The reason(s) for the condition(s) is(are):-

1. In the interests of visual amenity.

NOTES TO APPLICANT:

None

ITEM NO:	10
WARD NO:	Prestatyn South West
APPLICATION NO:	43/2007/1277/ PF
PROPOSAL:	Erection of single-storey pitched-roof extension at side and two-storey pitched-roof extension at rear of dwelling
LOCATION:	117 Fforddisa Prestatyn
APPLICANT:	Mr & Mrs M Holbrook
CONSTRAINTS:	Article 4 Direction
PUBLICITY UNDERTAKEN:	Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

1. PRESTATYN TOWN COUNCIL
Objection "Overbearing impact on the neighbouring properties and possible land encroachment. Further clarification of proposal and location required."

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. Ms Dorothy Ann Beacall, 28 St Chads Way, Prestatyn

Summary of planning based representations

- i) Shadowing, overlooking and harmful to the character of the area.

EXPIRY DATE OF APPLICATION: 20/12/2007

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. The application site is situated to the south west of Prestatyn in an area that consists of various house types. Number 117 is a detached two storey dwelling with a public footpath adjoining the side (east) boundary. The plot measures 30.5 metres in length and 12 metres wide.
2. At the rear of the dwelling there is currently a conservatory in place, this will be removed prior to the commencement of the development.
3. Erection of a two storey pitched roof extension at the rear of the dwelling. At ground floor level in the side (west) elevation one single external door will be inserted, the side (east) elevation will accommodate one 2 pane 0.9 x 1.2 metre window and the rear (south) elevation will have a double out opening door and one 4 pane 1.9 x 0.9 metre window. At first floor level one 2 pane 1.3 x 0.7 metre window will be inserted, the side (east and west) elevations will accommodate one velux roof window each.
4. The additional room provided by the extension will allow the kitchen to be relocated and also a day room and at first floor level a 3rd bedroom to be

constructed.

5. In place of the existing utility at the side (west) of the dwelling a garage with lean to roof will be constructed. A metal up and over door will be inserted in the front (north) elevation and a single external door and 2 pane 0.9 x 1.2 metre window in the rear (south) elevation. No windows or doors will be inserted in the side (west) elevation.
6. All walls will be constructed from concrete block and will be rendered and painted to match the existing dwelling. The roofs will be covered with slate grey concrete interlocking tiles that once weathered will match the colour of the existing.
7. **DIMENSIONS:**
Rear Extension
Width – 7.4 metres
Rear projection depth – 4.5 metres
Maximum pitched roof height – 6.1 metres

Garage

Width – 2.7 metres
Length – 6 metres
Maximum pitched roof height – 4.6 metres

RELEVANT PLANNING HISTORY:

8. 43/2007/1028/PF – Raiding of roof height and erection of two-storey pitched roof rear extension and lean-to garage extension at side of dwelling. Refused – 11th October 2007

PLANNING POLICIES AND GUIDANCE:

9. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 – Development Control Requirements
Policy HSG 12 – Extensions to dwellings

SUPPLEMENTARY PLANNING GUIDANCE
SPG No.1 – Supplementary Planning Guidance Note

MAIN PLANNING CONSIDERATIONS:

10.
 - i) Principle
 - ii) Visual Appearance
 - iii) Residential Amenity
11. In relation to the main planning considerations in paragraph 10:
 - i) Policy
The principle complies with Policy GEN 6 criteria.
 - ii) Visual appearance
Although the ground floor area of the rear extension is relatively large it is worth noting that the plot size is more than adequate, the maximum roof height will be 2 metres less than the existing, the roof will be hipped at the rear to reduce the visual impact and the colour of the materials will match the existing.

Although the garage will be visible from the front of the dwelling it will not appear dominant due to its size and being slightly set back from the front

elevation. It is therefore concluded the proposal will be visually acceptable.

iii) Residential amenity

Although the size of the rear extension is relatively large it will not over develop the plot, will be 3 metres from the west boundary, 2 metres from the east boundary with the footpath and 13 metres from the south boundary.

After considering the comments received from the owners of the bungalow at the rear of the application site it is not thought the extension will have a major impact on them as there should be no loss of light as the extension will be to the north of them and there will be adequate distance between buildings.

Although the proposed garage will only be 1 metre from the boundary with 119 Fforddisa it is not thought it will have a detrimental impact as there will be no facing windows and there is screening in place.

After carefully considering the above it is concluded that relevant criteria in Policy HSG12 has been complied with as well as parts of the Supplementary Planning Guidance Notes.

SUMMARY AND CONCLUSIONS:

12. The single storey pitched roof garage at the side and two-storey pitched roof extension at the rear is acceptable and recommended for approval.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The materials and finishes of the external surfaces of the walls and roof of the building hereby permitted shall be of the same texture, type and colour as those on external walls and the roof of the existing building.
3. Notwithstanding the provisions of the Town and County Planning (General Permitted Development) Order 1995 (or any other revoking and re-enacting that order with or without modification) no windows additional to those shown on the approved plans shall be inserted in either the side or rear extension at any time.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. To maintain a reasonable standard of privacy in adjoining dwellings and gardens in the interests of amenity

NOTES TO APPLICANT: None

ITEM NO: 11

WARD NO: Prestatyn East

APPLICATION NO: 43/2007/1308/ PF

PROPOSAL: Erection of free-standing shelter in rear beer garden

LOCATION: Halcyon Quest 17 Gronant Road Prestatyn

APPLICANT: Mr M Vaughan

CONSTRAINTS: CLA-Class A Road
Article 4 Direction

PUBLICITY UNDERTAKEN: Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

1. PRESTATYN TOWN COUNCIL
"Object, design not in keeping with environmentally sensitive area."

RESPONSE TO PUBLICITY:

None.

EXPIRY DATE OF APPLICATION: 01/01/2008

- Timing of receipt of representations.

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. The application site consists of a long established licensed restaurant premises. The premises is two storey and set back from the road with parking areas to the front and rear.
2. To the south west boundary of the site sits a 2m high fence which separates Nos. 17 and 15 Gronant Road. No. 15 Gronant Road is currently a private residence. The north west boundary consists of a well established hedge and tree screening.
3. Permission is sought for the erection of a free-standing shelter in the rear beer garden. The shelter measures 6m in width, 5.7m in length and 3m in to ridge height. The shelter will be erected using timber boards and a felt roof, perspex windows are proposed to both the south east and north west elevations.
4. The application is presented to the Planning Committee in accordance with Part 2, A (i) of the scheme of Delegation in response to the objection made by Prestatyn Town Council.

RELEVANT PLANNING HISTORY:

5. None.

PLANNING POLICIES AND GUIDANCE:

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6- Development Control Requirements

GOVERNMENT GUIDANCE:
Planning Policy Wales, March 2002

MAIN PLANNING CONSIDERATIONS:

- 7.
- i) Principle of the proposal
 - ii) Impact on Visual Amenity
 - iii) Impact on Residential Amenity
8. In relation to the main planning considerations in paragraph 5:
- i) Principle of the proposal
Policy GEN 6 allows for development providing it complies with the relevant criteria regarding the size, scale and character.
 - ii) Impact on Visual Amenity
The proposal is in a discreet location to the rear of the property, the proposed shelter respects the character and appearance of the property in terms of materials. There are no concerns relating to the impact this proposal will have on the visual amenity of the property and the area and thus complies with Policy GEN 6.
 - iii) Impact on Residential Amenity
A precedent has set for patrons of the public house to use the rear garden as a beer garden. Given the location of the shelter, it's limited size and the precedent which has been set it is not considered any significant impact upon residential amenity will be experienced.

SUMMARY AND CONCLUSIONS:

9. The proposal complies with policy and is recommended for approval.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. Notwithstanding the approved plans a 2m high screen fence shall be erected on the north-western boundary of the site. The screen fence shall be retained and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interest of residential amenity.

NOTES TO APPLICANT:

None

ITEM NO: 12

WARD NO: Rhyl South West

APPLICATION NO: 45/2007/1350/ PF

PROPOSAL: Increase in number of children from 20 to 26 at day nursery

LOCATION: Tots' Corner 13 Dyserth Road Rhyl

APPLICANT: Ms Clare Rowlands

CONSTRAINTS: Article 4 Direction

PUBLICITY UNDERTAKEN: Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

1. RHYL TOWN COUNCIL:
 "Object on the grounds that the Nursery is located on a busy junction of Grosvenor Avenue/Dyserth Road/Grange Park. There is no off street parking at the site and Local Members already consider that when the nursery is operational within existing limits the parking of vehicles by staff and parents delivering/collecting children is a concern especially during peak road travelling times which is likely to coincide with parents arriving and departing."
2. HIGHWAY AUTHORITY:
 No Objection

RESPONSE TO PUBLICITY:

None

EXPIRY DATE OF APPLICATION: 02/01/2008

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations

PLANNING ASSESSMENT:

THE PROPOSAL:

1. Permission is sought to increase the number of children at Tots' Corner Day Nursery from 20 to 26.
2. The house is located at the junction of Grosvenor Avenue/Dyserth Road/Grange Park and is a large detached house and garage with a large garden area. The building is not currently used but between November 1985 and March 2007 had been used as a children's day nursery.
3. This application has been submitted owing to the business changing ownership. During the course of this process it was revealed that the business only had planning permission for a maximum of 20 children, but was licensed for up to 30

children. Prior to the sale of the business the Nursery had been caring for 26 children per day – within the limit of the Licence, but beyond that of the planning permission. Consequently, this application has been submitted to regularise the situation.

RELEVANT PLANNING HISTORY:

4. 2/RYL/348/85 – Increase from 15 to 20 children – GRANTED 4th Nov 1985
2/RYL/0528/PF – Erection of single-storey flat-roofed extension at rear of premises and internal alterations – GRANTED 17th February 1992

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002):
Policy GEN 6 – Development Control Requirements
Policy CF 1 – Community Facilities (General)

SUPPLEMENTARY PLANNING GUIDANCE:

SPG 3 – Child day care

MAIN PLANNING CONSIDERATIONS:

6.
 - i) Principle of proposal
 - ii) Impact upon residential amenity
 - iii) Impact upon traffic
7. With regard to the considerations noted in paragraph 6:
 - i) Principle of proposal:
The principle of a nursery in this location is already well established. The premises are licensed for up to 29 children and therefore in terms of standards the proposal is acceptable, and the premises can accommodate 26 children. Therefore the main issue for consideration is the proposed increase in numbers and the potential impact upon the traffic and amenity of the area. In principle the proposal is acceptable subject to other considerations.
 - ii) Impact upon residential amenity
The use is well established and for this reason it is considered that 26 children as opposed to 20 is not a significant increase. It should also be noted that the previous nursery had been operating at 26 children per day and has received no complaints from neighbours.
 - iii) Impact upon traffic
The number of children being looked after prior to March 2007 was approximately 26. Therefore it is argued that to regularise the number of children in the house at 26 would not result in a change in the traffic flow. It is further noted that the Highway Authority have raised no objection to the proposal. It is considered that the proposal is both acceptable in principle and has been demonstrated to be acceptable in practice.

SUMMARY AND CONCLUSIONS:

8. The proposal benefits from having operated in the past at the proposed levels, and there being no adverse consequences. Therefore it is considered that the proposal is acceptable and there are no material planning objections.

RECOMMENDATION: GRANT- subject to the following conditions:-

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PLANNING COMMITTEE
MEETING: 23rd January 2008
Agenda Item: 3

ENFORCEMENT MATTERS

ENF/ 2007/00104 :
Ty Newydd, Llandegla, Wrexham

Residential use of caravan

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2007/00104
LOCATION: Ty Newydd, Llandegla, Wrexham
INFRINGEMENT: Residential use of caravan

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

Policy GEN 6 – Development Control requirements
Policy GEN 3 – Development outside Development Boundaries

GOVERNMENT GUIDANCE

Planning Policy Wales 2002
Technical Advice Note (Wales) 9 : Enforcement of Planning Control

HUMAN RIGHTS CONSIDERATIONS

The rights of a person to residence in a caravan does not outweigh the right of the Local Planning Authority to protect the amenity of the area. No human rights issues have been raised in this case.

1. BACKGROUND INFORMATION

- 1.1 The site is a former smallholding and there is a boarded up unoccupied dwelling on the site. Ms Anita Ashley is living in a caravan on the site without benefit of mains water or any other services and is using the land for the keeping of horses and dogs.
- 1.2 The residential use of the caravan was reported to a Planning Enforcement Officer in December 2007 and Planning Enforcement Officers subsequently took part in a joint operation on the site with Officers from various interested DCC departments and outside agencies. The occupier was advised inter alia that the residential use of the caravan was unacceptable and must cease.
- 1.3 The owner has stated to Officers that she has no intention of finding alternative accommodation.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 It would appear that the breach of planning control has occurred within the last 10 years and the imposition of planning conditions, in this instance, would not overcome the harm the residential caravan has on adopted UDP policies, which seek to control residential development in the open countryside. Furthermore, the siting of the caravan and associated domestic paraphernalia would represent an intrusive feature

within this attractive open countryside location. The unauthorised residential use of a caravan in the open countryside has a detrimental impact on the amenity of the area and is therefore not acceptable.

- 2.2 The residential use and siting of the static caravan in this open countryside location is contrary to the policies referred to above. To allow a residential use outside any designated settlement boundary would be contrary to strategic policies within the adopted Unitary Development Plan and would set an undesirable precedent for other sporadic forms of residential development outside defined settlement limits.
- 2.3 It is considered that enforcement action is the only expedient way to deal with the present breach of planning control at this site.

3. RECOMMENDATION

- 3.1 That authorisation be granted for the serving of an Enforcement Notice with a 3 month compliance period ordering the cessation of use of the caravan as a residence and furthermore, the removal of the caravan from the land.
- 3.2 To instigate prosecution proceedings where any person on whom a Notice has been served fails to comply with the provisions of the Notice.

REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION

**INFORMATION ITEMS FOR PLANNING COMMITTEE
QUESTIONNAIRE FOR NEW AGRICULTURAL DWELLINGS**

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise Members of the updated Questionnaire which applicants for new agricultural dwellings are now required to complete with their applications.

2. BACKGROUND

- 2.1 To assist Planning Officers and others in determining whether a new dwelling in the open countryside is essential Denbighshire County Council has required applicants to complete an agricultural questionnaire to accompany their application.
- 2.2 Policy HSG 6 of the Denbighshire Unitary Development Plan along with Welsh Assembly guidance in Technical Advice Note 6 (Wales) – Agricultural and Rural Development also requires that a justifiable need is established before the granting of pl
- 2.3 The existing Agricultural Questionnaire has been used since 1996 with questions being added and modified when certain planning issues have arisen.
- 2.4 To ensure the submission of more detailed and targeted information the Questionnaire has now been modified and updated. The reasons for the changes are that agricultural land classifications have been revised and planning appeal decisions have highlighted the need to seek more specific information.
- 2.5 The updated questionnaire document can be seen at Appendix A at the rear of this agenda.

3. RECOMMENDATION

- 3.1 That Members note the updated questionnaire and the content therein.

QUESTIONNAIRE FOR

NEW AGRICULTURAL DWELLINGS

- (a) This form, along with the relevant forms, plans, documents and the planning fee, should be completed in full to accompany all applications for new agricultural workers dwellings.
- (b) This information is to assist the Local Planning Authority's appraisal of the application, in particular to allow assessment of whether the need for a new dwelling in an open countryside locations is essential. The requirement to establish a need to justify the grant of planning permission is set out in Policy HSG 6 of the Denbighshire Unitary Development Plan, Welsh Assembly Government guidance in Planning Policy Wales (March 2002), and Technical Advice Note (Wales) 6 – Agricultural and Rural Development.
- (c) In order to address the tests in planning policy and guidance, the Local Planning Authority will also require an independent technical appraisal of the functional need for a dwelling and the financial viability of the enterprise. The Authority's preferred route is to commission ADAS to undertake such an appraisal, in accordance with a standard brief based on the contents of planning policy and TAN6 (attached at the rear of the questionnaire). The cost of commissioning an appraisal is currently £550 + VAT, which has to be met by an applicant and forwarded to the County Council in order to instruct ADAS to proceed.
- (d) The Council do not normally view favourably applications for new dwellings which are sought prior to the establishment of an agricultural/forestry business. You would be strongly advised to contact the Planning Office to discuss how best to proceed in such circumstances.
- (e) Part 1 of the questionnaire will form a Background Paper to the application, available for inspection by members of the public in accordance with the Access to Information/Freedom of Information Legislation. Any financial information supplied in Part 2 of the questionnaire is exempt from the requirement of the Act and will be treated in confidence and not available for public inspection.
- (f) You are reminded that any permission which may be forthcoming can be open to challenge if it is found that false or misleading information has been furnished in order to obtain it.

Name : _____

Address : _____

Post code : _____

**Tel. No at
above address:** _____

Mobile No: _____

Email address: _____

If any land involved with the application lies within the ownership of a registered Farming Company please provide the following details :

Company name: _____

Date registered: _____

Name of company partners: _____

Company tel. contact no. _____

Company Address: _____

Post code : _____
 (if different from above)

Address of planning application if different from either of above addressess

STATEMENT

I hereby confirm that the information in this questionnaire is accurate at the date of signing it.

Signature _____ **Date** _____

Relevant company signatory _____ **Date** _____

PROVIDING FALSE OR INACCURATE INFORMATION WILL ALLOW THE LOCAL PLANNING AUTHORITY'S DECISION OPEN TO LEGAL CHALLENGES.

SECTION A – STATUS, EXTENT AND DETAILS OF LAND WHICH FORMS THE UNIT

LAND IN YOUR OWNERSHIP

PLEASE NOTE

- The full extent of land in the company/ applicant's ownership must be clearly identified; edged in blue, on a 1:10,000 scale map or suitable alternative scale plan to accompany this questionnaire.
- The site proposed for a new dwelling should be edged in red on a 1:2500 scale map, to form part of the application plans and documents.
- The name and location of all dwellings owned should be identified on the 1:10,000 scale plan.
- If there are any other dwellings owned in the locality you should state where these are in Section D

1. **Please state the area of the owned land shown edged in blue as identified on the plans submitted _____(Hectares)**
2. **Since when has this land been in your/company ownership? _____**
3. **In relation to the land identified in blue please attach copies of the following:**
 - a) **Documentation that this land is registered as an agricultural holding unit according to the Welsh Assembly Government (WAG) criteria. You should include copies of WAG documents with the relevant registration references.**
 - b) **Official land registry details.** (Contact details for this information are given at the end of this questionnaire)

Areas identified for 3a) and b) should relate to the same land area. It is in your interest to clarify the full and proper extent of landownership and WAG unit. Should any landownership discrepancies arise, the Local Planning Authority may not be able to proceed any further with the planning application.

YOU ARE REMINDED THAT ALL INFORMATION WILL BE AVAILABLE TO MEMBERS OF THE PUBLIC BACKGROUND PAPERS UNLESS YOU SPECIFICALLY INDICATE OTHERWISE.

4. OTHER LAND.

Please provide details and scaled maps showing the location of any land subject to the following:

	Tenure arrangements (please delete as appropriate) Land which is:	Hectares	Length of tenancy (where applicable)
i	Owned by the company/applicant elsewhere:		
ii	Tenanted by the company/applicant		
iii	Rented by the company/applicant		
iv	On a licence to the company/applicant		
v	Other agreements to the company/ applicant Please provide details..		
	TOTAL OF ALL ABOVE LAND		

For each arrangement identified for i) to v) above, please provide and list documentary evidence in respect of WAG registration and landowner(s) e.g. names; length and type of

lease/licence. The areas should be clearly identified on the OS map accompanying the application, in a distinctive colour or notation for each arrangement.

Should any of the above land fall within the boundaries of another Council the Local Planning Authority will formally consult the appropriate Council

5. ENTITLEMENTS

a) Please provide documentary evidence of the total unit entitlements you hold for the land in your ownership identified in QUESTION 1 above.

b) Please provide documentary evidence of the total unit entitlements you hold for the other land identified in QUESTION 4 above.

c) Please provide documentary evidence of any milk quota in your ownership, if applicable.

NOT APPLICABLE.....

NUMBER OF UNITS.....

YOU ARE REMINDED THAT ALL INFORMATION WILL BE AVAILABLE TO MEMBERS OF THE PUBLIC BACKGROUND PAPERS UNLESS YOU SPECIFICALLY INDICATE OTHERWISE.
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SECTION B – STOCK

6. Please list the current stocking numbers on the land in your ownership identified in SECTION A, QUESTION 1, and how many you currently OWN.

Stock	No's Owned	Length of time owned
TOTAL STOCK		

It is in your interest to clarify the full and proper extent of stock numbers and their ownership. You should include copies of up to date Continuous Herd Record and Annual Sheep Inventory Records (see end of questionnaire for contacts) for the above unit.

Should any stock ownership discrepancies arise, the Local Planning Authority may not be able to proceed further with the planning application.

7. In relation to other land identified in SECTION A, QUESTION 4, please list the current stocking numbers in your OWNERSHIP on the land, which land areas these are based.

Land location	Stock	No's Owned	Length of time owned
Other owned			
Tenanted			
Rented			
Licence			
Other			
TOTAL STOCK			

It is in your interest to clarify the full and proper extent of stock numbers and ownership. You should include copies of up to date Continuous Herd Record and Annual Sheep Inventory Records (see end of questionnaire for contacts) for the above unit.

Should any stock ownership discrepancies arise, the Local Planning Authority may not be able to proceed further with the planning application.

YOU ARE REMINDED THAT ALL INFORMATION WILL BE AVAILABLE TO MEMBERS OF THE PUBLIC BACKGROUND PAPERS UNLESS YOU SPECIFICALLY INDICATE OTHERWISE.

8. **Please indicate what proposals, if any, you have for increasing/changing the stocking details listed in questions 6 and 7, and when these changes are proposed**

NO PLANS

YES – Following changes are proposed:

C. LAND MANAGEMENT

LAND CROP USE

9. (a) Please confirm the area of land currently devoted to each of the following land crop on the land identified in blue in SECTION A QUESTION 1

<u>Crop</u>	<u>Area (Hectares)</u>
• Grass for Grazing	_____
• Grass for Conservation	_____
• Rough grazing	_____
• Woodland	_____
• Statutory Habitat designated area	_____
• Other crops (specify)	_____

(b) Please confirm if this land is

- within _____
- or, forms part of _____

an **Agricultural Environmental WAG Scheme** and, if so, what type of scheme and for how many years does this involve

(c) Please confirm and provide details, if this land is

- within _____
- or, forms part of _____

a **Nitrate Vulnerable Zone**

(d) Please confirm and provide details, if this land is

- within _____
- or, forms part of _____

a registered **Common Land** area.

(e) Please confirm and provide details, if this land is

- within _____
- or, forms part of _____

a **Less Favoured Area**.

(f) Please indicate what plans, if any, you have for changing the land use crop pattern identified above , and when these changes are proposed.

No plans

Proposed changes _____

10. Machinery

Please list agricultural machinery currently owned and used, together with current valuation.

Machinery	How many	Current valuation

11. Agricultural Buildings

Please mark the location of all the buildings on a plan, including traditional range (if any), starting from number 1, and list them in the following table:

Building	Size	Current Use
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		

12. In the case of more than one unit being registered, and where farm buildings are geographically separated, where do you consider the hub of the enterprise lies? (i.e. where is the main activity carried out?)

D. EXISTING DWELLINGS AND BUILDINGS

13.

(a) In relation to the land edged blue identified in SECTION A, QUESTION 1, how many dwellings currently exist on this unit?

(b) Please confirm the name(s) of the dwelling(s) and who occupies it (them)

Name of Dwelling	Name of Occupier	Role in Unit

All the dwellings should be clearly identified on the 1:10,000 scale plan.

(c) Have any of the above dwellings been permitted for an agricultural worker?

YES ----->

NO ----->

Is this occupied by persons currently working on the unit?

- If YES please state name of occupier(s)

- If NO, please confirm why the dwelling is not occupied by an agricultural worker, and why this can not be used to meet the need now identified.

(d) Have any other dwelling(s) (not listed above) ever been permitted for an agricultural worker(s) in connection with a larger part of this land area, and have they been sold off or fragmented from the current ownership?

YES ----->

NO

- Please confirm the name and address of the dwelling (s)

- Please state when fragmentation took place, and why the dwelling(s) were split from the land.

- Is this dwelling (s) occupied by persons currently working on land owned/connected with this land?
 NO
 If YES - please provide details

(e) **Have there been other dwelling(s) occupied by workers in connection with the agricultural unit.**

YES Please provide details _____

NO

(f) **Are there any unused traditional stone or brick outbuildings which could be adapted for use as a dwelling(s), without creating the need for replacement agricultural building(s)?**

YES Please provide details _____

NO

(g) **If outbuildings exist, please confirm why conversion is not a realistic proposition.**

(h) **Is it not possible to subdivide any existing dwelling(s) within your ownership, to provide the accommodation required? Please explain your response.**

OTHER DWELLINGS IN THE LOCALITY

14. (a) **Do you own any other dwellings in the locality?**

YES. Please confirm location/distance from the main hub of the unit.

NO

(b) **Have you made investigations elsewhere in the area for a property for a worker?**

YES - - - - - →

• For how long, where, with whom and why was this unsuccessful?

 If a Local Housing Association involved, please confirm and provide documentary evidence.

NO - - - - - →

• Why have you not pursued this option?

- (c) Please detail why it is not feasible to run the unit with the worker(s) living where they/ he/she presently lives, or in the nearest settlement.

D. PRESENT LABOUR MANAGEMENT

15. How has the business been run to date without the presence of an additional worker's dwelling/how long has the need existed for a new dwelling and what has brought about the current application?

16. Current labour on the Unit. Please list all labour employed:

Name and address	Function on the Unit	Full / Part Time

THE NEW DWELLING

17.

a) Please state ;
what function the new dwelling would serve

who would occupy it.

b) Is the need for a 24 hour a day, year round presence, or a seasonal presence?
Please clarify.

(c) The dwelling should be sited as close as possible to the hub of the business.
Please state why you have chosen the location shown on the application for the proposed dwelling.

18.

Security Need

If the case for a new dwelling is based on a perceived need for a security presence, please state as follows:-

(a) Detail the precise security problem

-
- (b) **Provide factual evidence to demonstrate the extent of the problem (e.g. recorded break-ins/police records)**

- (c) **Details of on site security measures taken to address the problems identified, and why alternative measures cannot be taken.**

19. Any Other Information

If you have any additional information you consider of relevance to the application, please detail this below:

PART 2 FINANCIAL INFORMATION

20. Consideration of the application requires an evaluation of the financial viability of the farming enterprise over a period of time, and the prospect of future viability. You are therefore asked to attach to this questionnaire sets of audited accounts for the business for **AT LEAST THE LAST THREE COMPLETED FINANCIAL YEARS**, and if you have a Business Plan, this should also be enclosed. You are reminded that all financial information will be handled in confidence by the Local Planning Authority, and will not be available for inspection by the public as background papers unless you specifically indicate otherwise.

Accounts attached Yes/No

If No, please state reason why:

Business Plan attached Yes/No

If No, please state reason why:

21. **Any other financial information**

If you have any other confidential information you consider of relevance to the application, please detail this below:

USEFUL CONTACTS:

Defra:

Defra
Area 1E
3-8 Whitehall Place
London SW1A 2HH

Tel: 020 7270 8867
Fax: 020 7270 8970

http://www.defra.gov.uk/animalh/id-move/data_protection.htm

Land Registry

Land Registry, Wales Office
Ty Cwm Tawe
Phoenix Way
Llansamlet
Swansea
SA7 9FQ

Tel: 01792 355000
Fax: 01792 355055

<http://www.landregistry.gov.uk/regional/office/default.asp?fl=1&dlr=WA>

Welsh Assembly Government

Caernarfon Divisional Office
Government Buildings
Penrallt
Caernarfon
LL55 1EP

Tel: 01286 674144
Fax: 01286 677749

E-mail: agriculture.caernarfon@wales.gsi.gov.uk

British Cattle Movements Service

Curwen Road
Workington
Cumbria
CA14 2DD

Tel: Monday - 8.00am to 5.30pm. Saturday - 9.00am to 1.00pm. Sunday closed.
Helpline; English 0845 050 1234 Welsh 0845 050 3466

E-mail: ctsonline@bcms.rpa.gsi.gov.uk

LIST OF DOCUMENTS TO ACCOMPANY THIS QUESTIONNAIRE

- Map 1;10,000 scale or suitable alternative, with full extent of land in the company/applicant's ownership, with names and locations of all dwellings owned
- Map 1;2500 scale outlining the proposal site in red
- WAG documents confirming agricultural holding registration
- Land registry documents
- Details of any other land, including location on scaled maps
- Entitlements documents
- Milk Quota documents
- Annual Sheep Inventory Record
- Continuous Herd Record
- Document(s) from Local Housing Associations
- Security records
- Financial account records
- Any other information

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The permission shall be valid only for the use of a day nursery and for no other purpose whatsoever.
3. The day nursery shall not operate outside the hours of 08.30 to 17.00 hours Monday to Fridays inclusive and shall not operate on any Bank Holiday.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. The site is not considered suitable for any other use by virtue of its location in a primarily residential area.
3. In the interests of the residential amenity of the occupiers of neighbouring properties.

NOTES TO APPLICANT:

None